

**MINUTES OF THE  
GREENSBORO ZONING COMMISSION  
MARCH 14, 2005**

**REGULAR MEETING**

A regular meeting of the Greensboro Zoning Commission was held on Monday, March 14, 2005 at 3:50 p.m., in the City Council Chambers, Second Floor, Melvin Municipal Office Building. Members present were Chair Gary Wolf, Brian Byrd, Tony Collins, Paul Gilmer, Sr., J.D. Haynes, Peter Kauber, Bill Schneider, Portia Shipman and Susan Spangler. The Planning Department was represented by Dick Hails, Planning Director, and Bill Ruska, Zoning Administrator. Blair Carr, Esq., represented the City Attorney's Office. Carrie Reeves represented the Greensboro Department of Transportation (GDOT).

Chair Wolf welcomed everyone to the Zoning Commission regular monthly meeting. He explained the procedures of the meeting and how any appeals may be made as to any Commission decision.

**APPROVAL OF THE MINUTES OF THE FEBRUARY 14, 2005 REGULAR MEETING.**

Mr. Gilmer moved approval of the minutes of the February 14, 2005 regular meeting as written, seconded by Ms. Shipman. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler. Nays: None.)

**PUBLIC HEARINGS:**

**OLD BUSINESS:**

- A. AN ORDINANCE REZONING FROM CONDITIONAL DISTRICT – SHOPPING CENTER WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES ALLOWED IN THE SHOPPING CENTER DISTRICT. 2) DEVELOPER SHALL INSTALL A SIX FOOT OPAQUE FENCE ALONG THE ADJOINING PROPERTIES WHICH ARE ZONED RESIDENTIAL. 3) ALL BUILDINGS SHALL BE OF BRICK AND MASONRY CONSTRUCTION. 4) DEVELOPER SHALL DOUBLE THE RATE OF THE REQUIRED STREET PLANTINGS AND THE REQUIRED PLANTINGS IN THE BUFFERS ALONG THE ADJOINING PROPERTIES WHICH ARE ZONED RESIDENTIAL. 5) PROPERTY WILL BE DEVELOPED IN CONJUNCTION WITH THE PROPERTY TO THE EAST WITH CROSS ACCESS PROVIDED BETWEEN THE TWO COMMERCIALLY ZONED PARCELS. 6) THERE SHALL BE A MAXIMUM OF TWO DRIVEWAYS ON PISGAH CHURCH ROAD. THE WESTERNMOST DRIVEWAY WILL BE FULL ACCESS AND THE EASTERNMOST DRIVEWAY WILL BE RIGHT IN, RIGHT OUT ONLY, THE LOCATION OF WHICH SHALL BE APPROVED BY GDOT. - TO CONDITIONAL DISTRICT – GENERAL BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES: ONLY USES ALLOWED IN SC ZONING WILL BE PERMITTED. 2) ONLY ONE PYLON SIGN WILL BE ERECTED ON PISGAH CHURCH ROAD TO SERVE ALL OF THE USES INCLUDED IN THE 2.94 ACRE PARCEL. 3) NO BUSINESS WITH ITS PRINCIPAL USE BEING A “BAR” WILL BE PERMITTED ON THIS PROPERTY. 4) DEVELOPER WILL INSTALL A SIX FOOT OPAQUE FENCE ALONG THE ADJOINING PROPERTIES THAT ARE ZONED RESIDENTIAL. 5) ALL BUILDINGS WILL BE OF BRICK AND/OR MASONRY STYLE CONSTRUCTION. 6) DEVELOPER WILL DOUBLE THE RATE OF REQUIRED PLANTINGS IN THE BUFFERS ALONG THE ADJOINING PROPERTIES WHICH ARE ZONED RESIDENTIAL. 7) PROPERTY WILL BE DEVELOPED WITH CROSS ACCESS TO THE WALGREEN’S PROPERTY TO THE EAST. 8) THERE WILL BE A MAXIMUM OF ONE DRIVEWAY WHICH**

**ACCESS AT THE WESTERNMOST PORTION OF THE PROPERTY ALONG PISGAH CHURCH ROAD. - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF PISGAH CHURCH ROAD BETWEEN BAYLOR STREET AND NORTH ELM STREET – FOR STEPHEN C. AUSTIN. (CONTINUED FROM FEBRUARY 14, 2005 MEETING)**

Chair Wolf asked if the applicant were present and no one came forward. He then asked that this item be moved to the end of the agenda.

Mr. Gilmer moved that Item A under Old Business be moved to the end of the agenda, seconded by Ms. Shipman. Concerns were expressed about the applicant not being present. The Commission voted 7-2 in favor of the motion. (Ayes: Wolf, Byrd, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: Collins, Spangler.)

**NEW BUSINESS:**

**A. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING HIGHWAY BUSINESS TO CITY ZONING HIGHWAY BUSINESS – FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF HICONE ROAD BETWEEN US 29 NORTH AND ARBORLINDA DRIVE –FOR THE PLANNING DEPARTMENT. (FAVORABLE RECOMMENDATION)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing. There was no one present to speak in favor of or in opposition to this request. Chair Wolf closed the public hearing.

Mr. Hails said staff feels this is rather straight forward, related to some earlier issues and clearly conforming to the Comp Plan. Staff recommended approval of the request.

Ms. Shipman moved the ordinance, seconded by Mr. Collins. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler. Nays: None.)

**B. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – LIMITED OFFICE WITH THE FOLLOWING CONDITIONS: 1) USES LIMITED TO PROFESSIONAL OFFICES OR A SINGLE FAMILY DETACHED DWELLING. 2) EXISTING STRUCTURE SHALL BE RETAINED. 3) OFF-STREET PARKING AREAS SHALL BE PROHIBITED BETWEEN THE PRINCIPAL BUILDING AND NATHANAEL ROAD. 4) FREESTANDING SIGNAGE SHALL BE LIMITED TO 6 FEET IN HEIGHT AND 25 SQUARE FEET IN SIZE, AND SHALL BE INDIRECTLY LIGHTED. 5) EXISTING VEGETATIVE SCREEN SHALL REMAIN UNDISTURBED ON SOUTHERN PROPERTY LINE. - FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF NATHANAEL ROAD BETWEEN WESTRIDGE ROAD AND TALIAFERRO ROAD – FOR MARK STEWART. (DENIED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

There was no one present to represent the applicant.

Speaking in opposition, Sandra Rich, 3307 Nathanael Road, objected to a change in zoning to CD-LO or any use other than residential single family. The only entrance to the property would be from Nathanael Road, thereby increasing traffic on that road. This would begin the process for property uses along Westridge and Nathanael to also be changed.

Paul Troxler, 3309 Nathanael Road, objected to any change in zoning and also had the same objections as Ms. Rich.

Dick Cudworth, 3209 Nathanael Road, and Randy Lewis, 3301 Nathanael Road, also objected to the increase in traffic.

Chair Wolf closed the public hearing.

Mr. Hails said this site is located at the edge of Mixed Use Commercial and Low Residential. In the plan, it was given a fuzzy line analysis. Staff sometimes supports such types of office or multifamily transitional uses between commercial and residential. However, staff most often does that along a busier street, a thoroughfare or at least a collector. They feel the fact that this is a residential street with stable, single family uses adjoining this property on two sides makes it different than in other cases. As such, staff recommends denial of the request.

Mr. Gilmer moved the ordinance, seconded by Ms. Shipman. The Commission voted 0-9 in favor of the motion, thereby denying the request. (Ayes: None. Nays: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler.)

**C. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY TO RS-7 RESIDENTIAL SINGLE FAMILY – FOR A PORTION OF THE PROPERTY LOCATED AT THE SOUTHWEST QUADRANT OF SUMMIT AVENUE AND HOLLAND ROAD – FOR TRACEY AND NICHOLAS SHROUDER. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Nicholas Shrouder, 1609 Cobb Street, spoke in favor of the request as being compatible with the area.

Nancy Cavanaugh, 4505 Summit Avenue, spoke in opposition, noting the incompatibility of this proposed development and other recent nearby residential development.

Julia Blizin, 4505 Summit Avenue, spoke in opposition, due to incompatibility and traffic concerns. She read a statement from Amity Rose James, 4509 Summit Avenue, in opposition to this request.

Mr. Byrd said by his quick calculations, rezoning this property would mean a difference of only one lot based on the acreage here. He asked what she sees as the primary distinction between RS-7 zoning, which she opposed, and the RS-9, which would be acceptable?

Ms. Blizin said part of what she is looking at is precedent. The subject tract is very small, only about two acres, but once a precedent is established, then one foot follows the next. She read in the staff recommendation that one reason this should go through is that RS-7 is already set and the precedent has already been set. In her mind, that is not an adequate justification to run more through. She had heard nothing about how they will handle the problems from the original RS-7.

Mr. Schneider asked several questions about other possible zoning districts and about possible subdivision of the property.

Chair Wolf and several commissioners asked the applicant several questions regarding notification and access to lots on the property.

Ms. Cavanaugh said the existing home on Summit Avenue that is part of this tract of land has its driveway at the rear. There is no driveway at that home onto Summit Avenue. The semi-circle driveway is on Holland Drive. The neighborhood does not look at Holland Hills as a precedent in their neighborhood; they look at it as a thorn in the neighborhood's side. She said City Council educated them as to "spot" zoning. They termed the phrase and applied this to Holland Hills. "Spot" zoning was the Council's phrasing. The Holland Hills subdivision was approved by this Commission and by Council.

Chair Wolf said in 1992 the Unified Development Ordinance, in order to keep uniformity with the County and the City, brought flag lots into the City. Flag lots historically were mainly found in the County. He thought what he is seeing is more of a reflection of the application of flag lots, which historically were not allowed in the City, but now are. He thought they were an abomination in a small neighborhood subdivision because they do exactly what she is saying. Here he is seeing a function of the Development Ordinance, not necessarily the zoning.

Chair Wolf closed the public hearing.

Counsel Carr said "spot" zoning in its generic term from a legal zoning standpoint is essentially taking an isolated parcel of property and rezoning it to a characteristic that is far a field of those that surround it. She gave an example. Spot zoning per se is not illegal in North Carolina, but it requires compelling findings from this Commission as well as City Council to make a drastic change like this. The situation before the Commission is nowhere near spot zoning in the opinion of the City Attorney's Office.

Mr. Hails said the General Future Land Use Map (GFLUM) calls for low density residential here. A common situation that they see on RS-12, RS-9 and RS-7 is that they are all conforming to the Comp Plan in that regard. There are other policies in the plan calling for diversity of housing choices and types in these areas. He thought staff had typically approached a recommendation on these on the basis of compatibility. Compatibility primarily from a zoning standpoint, if you do not have design requirements in place to require similar kinds of building styles or even lot styles, usually relates to lot sizes. The fact

that RS-7, despite however it came into existence, is adjoining the site he thought is of note. The

request is basically to try and go from the ability to build three houses or subdivide to have three lots with the current zoning, so that they can do four lots with the proposed zoning. He noted that in our ordinance rewrite, they will be looking at several of the issues mentioned, including whether some sort of mandatory instead of optional community notification be required, whether flag lots should be permitted in the future and whether design guidelines are applicable to situations like this where a smaller lot zoning is requested within a certain area. However, staff feels like RS-7 development is not in and of itself incompatible or poorly designed, even if some developments of RS-7 or RS-12 could be incompatible by style, layout and lotting of the property. Staff does not feel ultimately that the zoning is the culprit there and that good design and compatible development can occur within the RS-7 in a setting like this. There are numerous other parts of our Comp Plan that support reinvestment in some of these areas. Staff supports the request.

Mr. Gilmer moved the ordinance, seconded by Ms. Shipman.

Chair Wolf asked Mr. Hails if the layout that was given the Commission by the applicants, and maybe Ms. Reeves could address this also, if GDOT refuses a curb cut to the corner lot, can that corner lot get a curb cut? He was wondering if even on Holland it could get a curb cut since it is so close to the intersection?

Ms. Reeves said GDOT was obligated to approve some form of access. If there were no curb cut on Summit Avenue right now for the existing house that uses the circular drive to get to it, in effect GDOT would have to grant a curb cut to that because it's only access is on Summit Avenue. Then GDOT would have the choice of whether the corner lot would have access to Summit or Holland.

Ms. Spangler asked about the development potential of the property.

Chair Wolf called for a vote on the motion on the floor. Concerns were expressed about neighborhood compatibility. The Commission voted 7-2 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Schneider, Shipman, Spangler. Nays: Haynes, Kauber.)

**D. AN ORDINANCE REZONING FROM RS-9 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – RM-8 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITION: 1) LIMITED TO A DAYCARE CENTER OR SINGLE FAMILY RESIDENTIAL USE. - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF APPLE RIDGE ROAD BETWEEN RANDLEMAN ROAD AND JONATHAN LANE – FOR NICHOLAS AND SONJA ELEY-GHEE. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Sonja Eley-Ghee, 1508 Candace Ridge Drive, said currently she had a home daycare. Because the neighborhood had started building up so much, she thought it was a good idea to turn the home into a daycare center. There is one other condition to be added: 2) The existing structure shall be retained. She will not be knocking it down to build up something different so it will look like a single family home

and would only be used for a daycare center or a single family residence.

Mr. Schneider moved that the Commission accept the added condition, seconded by Mr. Gilmer.

Chair Wolf said the additional condition is that the existing structure shall be retained. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler. Nays: None.)

Ms. Eley-Ghee said she had spoken with a couple of people in the neighborhood and they were more concerned because the shopping center across the street from them just kind of went up and they didn't even know that it had been changed. So they thought she was being forced to change. She then explained to them what she was doing and they were fine with her request.

In opposition, Olivia Martin, 512 Jonathan Lane, said she had with her a petition in which they had addressed this to the Zoning Commission. Those who have signed the petition that live within the area are opposed to having the daycare center built in that particular location. They do not oppose the single-family residential facility being put there, but they did not want the daycare because it will increase the traffic within that area. They would like to see it remain as a private residential section. Therefore, to erect another single dwelling facility would be better than putting a daycare center there, which would be a commercial use. They would like the condition modified so that it could only be used as a single-family residential use. She handed the petition up to the Commissioners.

Chair Wolf asked the applicant if she would like five minutes of rebuttal.

Ms. Eley-Ghee said looking at not only the future site map for that area where her house is sitting, the Greensboro map says "commercial use" so it is in compliance with that as well. But where it sits on Apple Ridge Road, the only traffic that she could see coming through Apple Ridge and Jonathan Lane is if someone who lives there wants to bring their children to that area. Most of the traffic will be going from Randleman Road. She is almost on the corner and there is nothing else there. So it wouldn't be a lot of traffic going down as it would if she were further into the community. She currently lives here and is making this change so she can have more children in her daycare center. She is limited to having eight children now, but anticipates having 30 children in the new daycare, which would be a mix of after school and all day children. The number of children she is allowed to have is dictated by the size of the facility or square footage of home. To the right of her home is an empty lot, which leads out to Randleman Road. To the left of her is where the new community of homes has been built. Her house was not part of that development. She has been running her daycare as it is now for eight years in the same location.

Chair Wolf asked if the opposition would like five minutes for rebuttal?

Ms. Martin said one of the reasons that they do not want the daycare center to be placed in that area is because there are commercial buildings on the main thoroughfare, which is Randleman Road. Her house is now located within the community area. Therefore, if she does increase her number of participants up to 30, it will simply increase the traffic flow for those coming into Apple Ridge Road trying to get into the community. There would be morning drop offs and evening pick-ups. Right now a stoplight is wanted there because of the commercial property. In the section zoned CD-RM-8, they are building single-family dwellings, which will increase the traffic. She said there was no traffic light at Apple Ridge and Randleman Road now, but they are hoping that GDOT will consider putting one up.

Chair Wolf closed the public hearing.

Mr. Hails said the GFLUM shows Mixed Use Commercial on this site; however, it is directly adjacent to Low Residential designation to the west. With a fuzzy line analysis, staff believes that the shopping center, on which rezoning was approved in early 2002 and subsequently the center has been built across the street from this site, merits more consideration of a transitional use between the commercial and the neighborhood as appropriate and makes single family use on this site more difficult. Staff thinks the condition maintaining the existing structure helps compatibility here, as does the required planting yard along the western side of this property that would be required to help buffer it from the neighborhood. As such, staff would recommend approval of the request.

Mr. Gilmer moved the ordinance, seconded by Mr. Schneider.

Mr. Gilmer said he would support this. He thinks from a real estate standpoint trying to sell that house would be very difficult where your front yard is the back door of a steel building across the street. He thinks this property is sitting right on the edge of development, it was there before the development. He thinks that it is in the right location. You have 91 homes going up across Randleman Road. He thought the neighborhood needs a daycare center. He thinks that with the new commercial development that is coming on Randleman Road, it would not matter. He thinks that from a real estate standpoint, trying to sell that house looking at a steel building, it is not a good view. He thinks that where it sits is ideal for a daycare center. Ms. Eley-Ghee has been there a number of years. She has done a great job. Also he thinks that the traffic, as far as going in there where it is right on the edge, he hoped she had a driveway where they can turn around and come right back out. He supports it and hopes the other Commissioners will support it also.

Mr. Haynes said he had read staff reports and he had been on the Commission for four years. The Commission has never approved a daycare in the community. He understands the staff report, but he could not see how the daycare could be compatible with that community. So he will be voting against it.

Mr. Collins said that the day care centers that he remembered that had come before the Commission have been in the middle of a neighborhood and not on the very edge. That is what is a little different because he does remember somewhere they have been right in the middle of everything. He said if something happened to this existing house (such as it burned down), what happens to the existing house part of this condition and how it would have to be built back? What could they put back there?

Mr. Ruska said they could put back either a daycare center or a single family dwelling, if it is rezoned. Under the existing zoning, they could put back a single-family dwelling and operate a home occupation daycare, which is what she has been doing. If you approve the rezoning, then the same thing would occur, except that she could go up to a commercial daycare center with as many children as would be allowed by the State.

Mr. Byrd said he thought Mr. Collins was asking more about the appearance rather than the use of it. Would the new structure have to have the appearance of a residential dwelling based on the rezoning condition that we have here that the existing structure would be retained.

Mr. Hails said they had had a number of these recently and he had asked the same question. He thinks the most recent thing he heard was they could build back on the same footprint and a conforming use, but they couldn't necessarily start from scratch and expand it, if one of the conditions still attached to the zoning is that the existing structure must remain.

Ms. Shipman said if the daycare increased to 30 children, would that help the community get a stoplight in that area since that was one of Ms. Martin's concerns.

Ms. Reeves with GDOT responded not necessarily.

Ms. Shipman said if the shopping center were not there, she would be able to have her daycare and extend it to 30 clients. It is not her fault that they built the shopping center at that location that causes friction with the community actually going in and out. She was going to vote for this based on that because we cannot blame this situation on her extending her daycare. She has been there a long time. It is going to access the community with more people being able to bring children in there, but it is not going to hurt the community because the traffic is not going to go all the way in and circle around to come out Apple Ridge Road to Randleman.

Mr. Ruska said as to parking at the daycare center, Ms. Eley-Ghee would be required to meet the minimum requirement, which is one space per 10 children. He was sure she had enough room in the back to meet this requirement.

Mr. Gilmer said he was on the Planning Board and the commercial realtor that really got this shopping center going did a great job. He had residents from the neighborhood come and testify in front of the Zoning Commission and he thought some of them came before the Planning Board. Everybody was supportive of that shopping center. He thought they did a good job, so people in that neighborhood were notified and spoke for the shopping center.

Mr. Byrd said he appreciated Mr. Gilmer's comments because he was not on the Commission when this was rezoned and, unlike Ms. Shipman, he thought he took the opposite view than Ms. Shipman. If the shopping center were not there, he probably would not consider this rezoning, primarily because of the traffic concerns. He was not aware that this rezoning would allow up to 30 children in this daycare. He thought with the shopping center there, he was hard pressed to think of what else could be done with this property, considering the view that it has. Although he has reservations about voting for this rezoning, he thinks he probably will support this particular rezoning.

Chair Wolf said he agreed with Mr. Byrd's comments and he wants to focus more on what is not before us and it's the failure of our Development Ordinance to deal with that shopping center across the street in an appropriate manner. He did not recall if that was some of our failure at this Commission or it was just the Development Ordinance, but that is an atrocious view from this house. This shopping center did nothing to mitigate the view to this residential neighborhood.

Mr. Ruska said that was one of those requests that staff recommended against. His recollection is that staff recommended against it, the Zoning Commission turned it down and the City Council approved it.

Chair Wolf said there was a lot to be learned from that because it is obvious this developer did not care what they were doing to the adjacent neighborhood in terms of view because he thought that rendered Ms. Eley-Ghee's lot unsalable, at least for its value as a single family house. So as a result of that, he was going to vote in favor of this request.

Chair Wolf called for a vote on the motion on the floor. The Commission voted 8-1 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Kauber, Schneider, Shipman, Spangler. Nays: Haynes.)

Chair Wolf said there would be a 10-minute break.

**E. AN ORDINANCE REZONING FROM RS-7 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – RS-5 RESIDENTIAL SINGLE FAMILY WITH THE FOLLOWING CONDITION: 1) USES: SINGLE FAMILY RESIDENTIAL WITH A MAXIMUM OF 2 LOTS, EACH WITH 62.5 FEET OF FRONTAGE AND WITH SETBACK AND OTHER REQUIREMENTS IN COMPLIANCE WITH RS-7 ZONING EXCEPT FOR THE SQUARE FOOTAGE, - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF COLSON STREET BETWEEN WILLOW ROAD AND IVY HEIGHTS – FOR HABITAT FOR HUMANITY OF GREATER GREENSBORO. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Trudy Menzzento, 438 West Friendly Avenue, said Mr. Ruska had explained pretty much what she wants to do. She wants to emphasize that the frontage on the lots will be 62.5-feet as opposed to the 50-feet that normally is required and what most of the neighboring lots have. If she puts two homes on this lot, as opposed to one, they are not going to look crowded. The difference is the depth of the back yards. In this case, each lot will be a difference of 12.5% from what is required with this zoning. She has contacted all of the neighbors on both sides and behind that are adjacent, as well as the pastor of the church across the street. She did not encounter any opposition. She has had one phone call from someone two streets away on Lake Street, who apparently got a notice from the Commission. She does not live there, but she owns the property and had questions about what they are doing and what their homes will look like. For illustrative purposes, she presented a picture of a typical house. Once they had a lengthy conversation, the caller thought that was a good thing for the neighborhood. Being able to put two homes on this lot as opposed to one home on a huge lot will provide homes for two Greensboro families that will be affordable and there is a great need for affordable homes in Greensboro. The two houses would be different since they never build two houses alike side by side.

There being no opposition to this request, Chair Wolf closed the public hearing.

Mr. Hails said the first thing staff looks at in judging the compatibility of this request was they noted that in the block in which this is included had other lots of 5,000-square feet or less and they felt that is an important compatibility issue. These proposed lots would actually be larger than seven of the lots in the immediate block, which were over half the lots. In the adjacent block south of Wythe Street, the same is true. Technically this density is above five units per acre in the low residential, but because of the compatibility of surrounding lots and the reinvestment and diversification of housing stock policies in the Comp Plan, staff feels it is supported overall by the policies. Therefore, staff recommends approval of the request.

Ms. Shipman moved the ordinance, seconded by Mr. Schneider. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler. Nays: None.)

**E. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – RM-5 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS: 1) USES: TOWNHOMES DESIGNED FOR SALE. 2) MAXIMUM OF 25 UNITS. 3) HEIGHT LIMIT OF NO MORE THAN 2 STORIES. - FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF OLD BATTLEGROUND ROAD BETWEEN COTSWOLD AVENUE AND COTSWOLD TERRACE – FOR BATTLE FOREST FRIENDS CHURCH. (APPROVED)**

Chair Wolf said he had been advised by Mr. Byrd that his law firm is representing the applicant so a motion is needed to approve the recusal of Mr. Byrd.

Mr. Collins moved that Mr. Byrd be recused from consideration or voting on this request, seconded by Ms. Shipman. The Commission voted 8-0-1 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler. Nays: None. Abstain: Byrd.)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Charlie Melvin, Esq., 300 North Greene Street, said he represents Dixie Hull, who has a contract to acquire this property and wishes to build 25 townhomes on it, subject to the conditions that Mr. Ruska explained. She explored with staff as to what would be the best zoning district for this property. Ms. Hull conducted a neighborhood meeting sometime ago and then more recently sent out letters to people residing in the area and responded to any inquiries that she got as a result of those letters. This is not of sufficient size to warrant a transportation impact study. If this rezoning is approved, during the site plan approval process factors will be considered to address any transportation issues.

Dixie Hull, 7985 Woody Road, Summerfield, said the first thing she wishes to bring to the Commission's attention is a letter she received from one of the residents of the area. It was written to the Zoning Commission in support of the rezoning of the Battle Forest Friends Church property from RS-12 to CD-RM-5. The letter goes on to say that the proposed development is compatible with the existing development in the area and would benefit the existing single-family development in the area. The letter was signed by John and Becky Short, who said they would be happy to respond to any questions the Commission might have of them. She handed up a copy of the letter. The new infill residential community that they plan to develop on these five acres will be a delightful village that they will name Liberty Square. They now plan to have 11 buildings with two homes each and one building with three homes and they will all have garages. Knowing that this is an historical area, they will do everything possible to respect that. There will be neighborhood restrictions to protect the homeowners and nothing detrimental will be done in the area. The placement and type of fencing will be monitored. Residents will be required to park in their driveways or in their garages; they do not wish to have any parking on the streets. There will be professional landscaping and they will establish a Homeowners' Association that will be responsible for the continuing maintenance of the area. At a meeting in the fall, some of the folks told them they should offer the property to the Guilford Battleground Company. Not knowing about that, after the meeting they actually did that, but Guilford Battleground declined to buy the property. They are confident their plans mirror the insight of the crafters of the Comp Plan and coincide with these guidelines. They are also confident that the demand for this type of housing is a growing trend,

particularly in the 55+ markets.

Latisha Lane, 3416 Cotswold Terrace, said they have three streets with 250 residences in that area and several little courts. She is advised there are over 450 townhouses on the market. She opposed the change in zoning and the increased traffic.

Janet Mintz, 2 Cavendish Circle, Jim Sanders, 3605 Cotswold Terrace, Randy Mintz, 2 Cavendish Circle, Fred Lewis, 3510 Cotswold Terrace, Terry Drew, 6 Martin Place, and Beth Lamson, 3410 Cotswold Terrace, opposed the increased traffic and preferred that single family homes be built on the subject property.

Ms. Lamson said the meeting at the church in November was arranged by the realtor and they had a very good turnout. They were all interested in the proposed use of the subject property. There was a lot of response and a lot of it was negative on the traffic and keeping the same types of homes in their area. They were told that there would be a zoning meeting about this. She knew of no follow-up meeting by the applicant.

Josh Mintz, 2 Cavendish Circle, said he liked to ride his bicycle through the area. He felt if there were 25 more housing units, the traffic would increase so that it would be dangerous for him to ride his bike.

Chair Wolf told Mr. Melvin that he had five minutes for rebuttal.

Charlie Melvin, Esq., said one of Ms. Hull's aims is to make whatever they do be compatible with what is there. It is important to have a compatibility of price range of houses. There would only be a difference of 10 homes with single-family detached and single family attached on the subject property. As to traffic, the difference between 10 homes will not be great. At the site plan review, if this rezoning request is approved, there will be consideration given to curb cuts and anything that can be done to make the traffic generated by this small parcel of land consistent with what exists there. To his understanding, there was only one meeting, but more recently a letter was sent to the people to whom the City sent its notice, affirming the matters that were discussed at the earlier meeting. Ms. Hull said she received three or four responses to her letter.

Ms. Reeves said for 12 single families, the general rule of thumb is 10 trips per household or 120 trips generated over 24-hours. For the 25 townhouses, there would be roughly 175 trips per 24 hours. She asked if they could get 15 single family homes on five acres.

Chair Wolf responded, "They probably could." So that would mean 150 trips generated over a 24-hour period.

Ms. Reeves said she had just figured an average of 25 to 30 trips difference. She said the townhomes would generate fewer trips per unit than single-family homes. She said earlier Chair Wolf had asked about the Cotswold Avenue Connector. There is some history out here. Originally the only connection between Battleground and Lawndale was Cotswold Terrace to Cottage Place to Lawndale. As an interim measure, they built Cotswold Avenue and moved the signal down to Cotswold Avenue. Old Battleground will be a cul-de-sac. However, if you look at the zoning map, you can see Cotswold Avenue is going to be realigned with Lake Brandt and there will be a bridge built so that will be a connection. Cotswold Terrace will be T'd into Cotswold Avenue and that will be a connection. What is taking the place of the Cotswold Avenue Connector is the Loop. So the traffic that needs to get to Battleground from Lawndale will utilize the Loop. However, the neighborhood will continue to use Cottage Place. There will be an

interchange at Lawndale.

Mr. Ruska said his recollection of that was it was going to be urban diamond, which takes up a lot less land than a cloverleaf.

Chair Wolf asked if the opponents would like five minutes for rebuttal?

Latisha Lane said there was an original meeting in November. When she left that meeting, she was told to wait for the Zoning Board. There was no further communication and she assumed the City sent her the letter regarding the Zoning Commission's meeting. She knew of no one who received further information from the developer.

Chair Wolf closed the public hearing.

Mr. Hails said the GFLUM of the Comp Plan shows this area as Low Residential, three to five dwelling units per acre. The existing as well as the proposed zoning fits within that category. In looking at compatibility within that, the staff report points out eight multifamily projects in the area. While there indeed is single family as well, the Comp Plan generally views having a diversity of housing types as a good thing, although they also call for the protection of neighborhoods as well, so there is a balancing act there for which they are always looking. Staff noted that the plans for the Urban Loop construction, located on the north side of this property, makes the view of future single family detached a bit more challenging there and certainly not impossible, but more noise oftentimes means less demand for that. Multifamily can be clustered further away and with the Scenic Corridor Overlay District (SCOD) 30-foot undisturbed buffer, multifamily provides some options in support of that. The Comp Plan also supports diversifying mixed income housing types. The conditions attached to the proposal add to the compatibility to the extent of its specifying how many units are allowed. Some of the statements made about brick and other design issues are illustrative only and not conditions on the attachment. On balance, the property does front on Old Battleground at the edge of the neighborhood. Staff feels it can be developed in a compatible fashion and staff supports the recommendation in support of the rezoning request.

Ms. Reeves said it was her understanding from Planning staff that they would not allow access to these townhomes from Old Battleground because of the greenway and right-of-way. There is probably some limited control of access because of the Loop through there.

Ms. Shipman said based on the location in which the 25 townhouses would be, it was not going to be in the middle of the neighborhood and is on the edge. She cannot see a whole lot more traffic inside the community, so she was thinking about recommending it. She had read the staff report thoroughly and it seemed staff did a good job, so she is still thinking.

Ms. Reeves said as far as access to Old Battleground, she does not believe Transportation would have any issues with approving a driveway permit to Old Battleground, but there are other issues to deal with as far as acquiring access across the greenway.

Mr. Ruska said because of the SCOD there would be a 30-foot buffer along the right-of-way line at the Urban Loop. That is true, regardless of the zoning district.

Mr. Schneider asked how that would relate to entering on Old Battleground?

Chair Wolf said currently it is because there is the greenway that runs up at the old railway track.

Mr. Schneider said with the Loop going in there and the Old Battleground cul-de-sac, to him not a transportation official or anything by any means that is more logical to go in there than through the neighborhood.

Chair Wolf said that was up to the City. It is a question of whether you look at the short-term plans or long-term plans.

Ms. Reeves said she thought the issue through the greenway is the mixing of pedestrian use with traffic use. Once that portion of the Urban Loop is finished, the greenway will end at Old Battleground. GDOT does not have a problem with putting a driveway across the greenway.

Mr. Gilmer moved the ordinance, seconded by Mr. Schneider.

There was a general discussion about the traffic patterns in the area now and what would happen when the Urban Loop was completed, with Ms. Reeves of GDOT answering most of their questions.

Chair Wolf said when he first looked at this request and until he knew there was a planned cloverleaf or some access at Lawndale, he was very concerned that all this was going to return us to the pre-Cotswold Avenue days. Knowing that is not the case and knowing what he knew of townhouses of this density versus single family, he was one of the bigger advocates on this Commission of townhouses being treated exactly as single family detached. He sees a townhouse of this nature as a single family attached. The traffic counts prove out that townhouses have fewer cars per unit. He did not see the traffic trips of 25 townhouses versus single family on this property being significant whatsoever. The benefits of townhouses on that tract are the Tree Ordinance applies and will force any trees that are on the site to be dealt with; there is routine maintenance over the property maintained by an Association and it will also end up having more open space on it than it would if it had single family detached homes. So he was inclined to approve it. He encouraged the City staff to think more than the next six or seven years in terms of how the townhouses access the road system. It makes no sense because of the existing greenway to say you cannot access Battleground when seven years from now, as soon as the Outer Loop starts construction, they will close Battleground. That is the logical place to put the access from the townhouses, not into the single-family subdivision.

Mr. Collins said he is normally one that is fully in favor of this type of use in and around single family. One argument he would give is that it is a use where people do not have to leave their neighborhood to go find smaller, more maintenance free-type living as their life styles change. However, there is a lot to choose from there already. He was also disappointed that there was not a representative from the church here to speak.

Ms. Shipman said she would like to say that she agrees with their Chairman. The entrance means a lot and her wish is that the developers really look at entering from Old Battleground. The neighborhood is already congested enough and if you really want to consider this project being of any help, then that would be a suggestion of hers. She was going to vote to approve it, as well.

Chair Wolf called for a vote on the motion on the floor. The Commission voted 8-1-1 in favor of the motion. (Ayes: Wolf, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler. Nays: Collins. Abstain: Byrd.)

**G. AN ORDINANCE REZONING FROM RS-9 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – RS-5 RESIDENTIAL SINGLE FAMILY WITH THE FOLLOWING CONDITION: 1) USES: SINGLE FAMILY DETACHED DWELLINGS NOT TO EXCEED 5 UNITS PER ACRE. – FOR A PORTION OF THE PROPERTY LOCATED NORTH AND WEST OF THE TERMINUS OF ZOLA DRIVE, SOUTH OF COLLINSWOOD LANE, WEST OF MIZELL ROAD, AND NORTH OF DENNY ROAD – FOR TONI BRANSON. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Toni Branson, 5922 Hagenstone Road, Pleasant Garden, introduced her partner, John Boston.

John Boston said he lived at 1707 Chesapeake Drive.

Ms. Branson said they would like to amend their application to include the following added two conditions. 2) Minimum building setback of 20 feet from the northern property line. (3) A 10-foot undisturbed buffer shall be maintained along the northern property line.

Mr. Byrd moved that the application be amended to incorporate the additional conditions, seconded by Mr. Gilmer. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman, Spangler. Nays: None.)

Ms. Branson presented a photo of the tree buffer that had been left off of Collinswood Lane. They are proposing a 10-foot undisturbed tree buffer in addition to that. Their goal is to provide attractive, affordable single family homes in a small neighborhood atmosphere while enhancing surrounding property values. Zola terminates at the beginning of the property.

Ron Hefner, 3512 Church Street, said he represented the people at 3506, 08, 10, 12, 14 and 15 Church Street that were opposed to this request. There was no mention about leaving a buffer for them, just on the north side of Collinswood Drive. He objected to the change in zoning from RS-9 to CD-RS-5. All the property at the addresses he gave on Church Street abuts the subject property.

Chair Wolf asked if the applicant would like five minutes for rebuttal?

Ms. Branson said the reason they didn't address a buffer on the west side was because the lots were so deep and there is a creek that runs to the back of those deep lots on that side.

Chair Wolf asked if the opposition would like five minutes for rebuttal?

Mr. Hefner said none of his neighbors were contacted about this. Nobody had talked to anybody in the community about it until he received the notice from the City.

Chair Wolf closed the public hearing.

Mr. Hails said this property is designated in the GFLUM as a majority of it being Low Residential.

Bordering on a strip on the southern part of the site is Moderate Residential and a little of the west side

is within an Activity Center that he believes centers on North Elm and Pisgah Church. As such, while the existing context out there is fairly low density, some of these designations support higher densities. Staff focused on compatibility in suggesting some of the added buffers, particularly to the north side along Collinswood Lane and feels that is an important compatibility issue here to the largest group of single-family homes close to this site. Staff thinks having Zola connected through and a stub to the west will eventually defuse traffic into different areas. In general, staff feels that the density is supported by the plan and with the different conditions attached to the request, they think it is important compatibility issues so staff supports approval of the request.

Ms. Shipman moved the ordinance, seconded by Mr. Byrd.

Chairman Wolf said before the vote, he would like to dispense with a housekeeping issue.

Ms. Spangler had told him she was leaving, but he didn't notice her slip out. He asked for a motion excusing her absence for the remainder of the meeting.

Mr. Byrd moved that Ms. Spangler be excused at the end of Item F and for the remainder of the meeting, seconded by Mr. Schneider. The Commission voted 8-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None.)

Chair Wolf called for a vote on the motion on the table. The Commission voted 8-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None.)

Chair Wolf said the applicant in the next item was one of his clients, so Mr. Collins would preside over the meeting for that item and he would ask to be recused.

Mr. Kauber moved that Chair Wolf be recused from consideration or voting on the next item due to a conflict of interest. Mr. Gilmer seconded the motion. The Commission voted 7-0-1 in favor of the motion. (Ayes: Collins, Byrd, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None. Abstain: Wolf.)

**H. AN ORDINANCE REZONING FROM CONDITIONAL DISTRICT – RM-8 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS: 1) USES: THE USE OF THE PROPERTY SHALL BE LIMITED TO A CHILD DAYCARE CENTER AND ACCESSORY USES. 2) ALL BUILDINGS SHALL BE ONE STORY IN HEIGHT. 3) ALL BUILDINGS SHALL BE CONSTRUCTED OF SUBSTANTIALLY BRICK VENEER BUILDING MATERIALS. 4) NO EXTERIOR LIGHTING FIXTURE SHALL EXCEED THE HEIGHT OF THE BUILDING. 5) ANY FREESTANDING EXTERIOR LIGHTING SHALL BE DIRECTED AWAY FROM ADJOINING PROPERTIES. 6) OWNER SHALL RETAIN AND ENHANCE EXISTING VEGETATION ALONG THE EASTERN AND WESTERN PROPERTY LINE TO PROVIDE A CONTINUOUS SCREEN OF EVERGREEN PLANTINGS CONSISTING OF LEYLAND CYPRESS TREES. 7) THE DAYCARE CENTER'S HOURS OF OPERATION WILL BE FROM 7:00 A.M. – 6:00 P.M. MONDAY – FRIDAY. 8) ALL DUMPSTERS AND HVAC EQUIPMENT SHALL BE SCREENED. 9) OWNER SHALL EXTEND THE EXISTING FENCE ON THE WESTERN PROPERTY LINE OF THE SUBJECT PROPERTY TO PROVIDE A BUFFER TO THE ADJOINING PROPERTY OWNER SUBJECT TO THE APPROVAL OF ADJOINING PROPERTY OWNER TO EXTEND SUCH FENCE. 10) OWNER SHALL CONSTRUCT AN EASTBOUND LEFT TURN LANE AND A WESTBOUND RIGHT TURN LANE FROM HORSE PEN CREEK ROAD INTO THE DAYCARE CENTER AS APPROVED BY GREENSBORO DEPARTMENT OF**

TRANSPORTATION. THE WESTBOUND RIGHT TURN LANE SHALL BE EXTENDED TO THE

INTERSECTION OF HORSE PEN CREEK ROAD AND CARLSON DAIRY ROAD IF APPROVED BY GREENSBORO DEPARTMENT OF TRANSPORTATION. 11) OWNER SHALL CONSTRUCT EXCLUSIVE SOUTHBOUND LEFT AND RIGHT TURN LANES EXITING THE DAYCARE CENTER AS APPROVED BY GREENSBORO DEPARTMENT OF TRANSPORTATION. 12) ANY FREESTANDING SIGNAGE SHALL BE LIMITED TO ONE MONUMENT SIGN, A MAXIMUM OF SIX FEET IN HEIGHT. 13) ENROLLMENT SHALL BE LIMITED TO 150 STUDENTS. 14) ANY VEHICLES OWNED AND OPERATED BY THE FACILITY SHALL BE GARAGED WHEN NOT IN USE. - TO CONDITIONAL DISTRICT – GENERAL OFFICE MODERATE INTENSITY WITH THE FOLLOWING CONDITIONS: 1) USES: THE USE OF THE PROPERTY SHALL BE LIMITED TO A CHILD DAYCARE CENTER AND ACCESSORY USES. 2) ALL BUILDINGS SHALL BE ONE STORY IN HEIGHT. 3) ALL BUILDINGS SHALL BE CONSTRUCTED OF SUBSTANTIALLY BRICK VENEER BUILDING MATERIALS. 4) NO EXTERIOR LIGHTING FIXTURE SHALL EXCEED THE HEIGHT OF THE BUILDING. 5) ANY FREESTANDING EXTERIOR LIGHTING SHALL BE DIRECTED AWAY FROM ADJOINING PROPERTIES. 6) OWNER SHALL RETAIN AND ENHANCE EXISTING VEGETATION ALONG THE EASTERN AND WESTERN PROPERTY LINE TO PROVIDE A CONTINUOUS SCREEN OF EVERGREEN PLANTINGS CONSISTING OF LEYLAND CYPRESS TREES. 7) THE DAYCARE CENTER'S HOURS OF OPERATION WILL BE FROM 7:00 A.M. – 6:00 P.M. MONDAY – FRIDAY. 8) ALL DUMPSTERS AND HVAC EQUIPMENT SHALL BE SCREENED. 9) OWNER SHALL EXTEND THE EXISTING FENCE ON THE WESTERN PROPERTY LINE OF THE SUBJECT PROPERTY TO PROVIDE A BUFFER TO THE ADJOINING PROPERTY OWNER SUBJECT TO THE APPROVAL OF ADJOINING PROPERTY OWNER TO EXTEND SUCH FENCE. 10) OWNER SHALL CONSTRUCT AN EASTBOUND LEFT TURN LANE AND A WESTBOUND RIGHT TURN LANE FROM HORSE PEN CREEK ROAD INTO THE DAYCARE CENTER AS APPROVED BY GREENSBORO DEPARTMENT OF TRANSPORTATION. THE WESTBOUND RIGHT TURN LANE SHALL BE EXTENDED TO THE INTERSECTION OF HORSE PEN CREEK ROAD AND CARLSON DAIRY ROAD IF APPROVED BY GREENSBORO DEPARTMENT OF TRANSPORTATION. 11) OWNER SHALL CONSTRUCT EXCLUSIVE SOUTHBOUND LEFT AND RIGHT TURN LANES EXITING THE DAYCARE CENTER AS APPROVED BY GREENSBORO DEPARTMENT OF TRANSPORTATION. 12) ANY FREESTANDING SIGNAGE SHALL BE LIMITED TO ONE MONUMENT SIGN, A MAXIMUM OF SIX FEET IN HEIGHT. 13) ENROLLMENT SHALL BE LIMITED TO 225 STUDENTS. 14) ANY VEHICLES OWNED AND OPERATED BY THE FACILITY SHALL BE GARAGED WHEN NOT IN USE. - FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF HORSE PEN CREEK ROAD BETWEEN CARLSON DAIRY ROAD AND GRAY BLUFF COURT – FOR SAMET CORPORATION. (APPROVED)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Vice Chair Collins opened the public hearing.

Joseph Bellissimo, 1516 Northwest Boulevard, Winston-Salem, represented Samet Corporation. He said this structure was under construction, but the client experienced financial problems and Samet

## **GREENSBORO ZONING COMMISSION REGULAR MEETING - 3/14/05**

17

Corporation had to take the property back. They marketed it again. They contacted the Planning Department about raising the capacity for the daycare. They were told that the previous client did not

need a higher capacity and did not do a traffic study. They had a traffic study done and the Planning Department concluded there would be no adverse affects to the traffic. With that in mind, they conditioned the request to a higher capacity so they could get a qualified tenant or buyer. Letters were sent to homeowners in the vicinity. They met with several of the homeowners in a meeting. The homeowners gave them their blessing to go ahead and complete the project and have it rezoned. He also phoned them last week to let them know about this hearing. The only change in conditions is the number of students permitted.

Vice Chair Collins asked if was anyone who wished to speak in opposition to this request and seeing none, he closed the public hearing.

Mr. Hails said, as noted, this fairly limited change to the current zoning conditions was felt to be conforming with the plan in general. Staff has recommended approval of the request.

Mr. Gilmer moved the ordinance, seconded by Mr. Schneider. The Commission voted 7-0-1 in favor of the motion. (Ayes: Collins, Byrd, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None. Abstain: Wolf.)

Vice Chair Collins turned the meeting back over to Chair Wolf.

**L AN ORDINANCE REZONING FROM LIMITED OFFICE TO CONDITIONAL DISTRICT – LIMITED BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES ARE LIMITED TO THOSE USES LISTED IN THE BUSINESS, PROFESSIONAL AND PERSONAL SERVICES SECTION OF THE LIMITED BUSINESS ZONING CLASSIFICATION. 2) THE BUILDING WILL BE OF A BRICK FAÇADE. 3) THE BUILDING SHALL BE LIMITED TO TWO STORIES IN HEIGHT. 4) THERE SHALL BE A MAXIMUM OF ONE ACCESS POINT ON N. ELM STREET AND ONE ACCESS POINT ON CORNWALLIS DRIVE. - FOR A PORTION OF THE PROPERTY LOCATED AT THE NORTHWEST QUADRANT OF NORTH ELM STREET AND WEST CORNWALLIS DRIVE – FOR SHALOM COMMUNITY CHRISTIAN CHURCH. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Henry Isaacson, Esq., 101 West Friendly Avenue, handed out booklets to the Commissioners for their information. During his presentation, he referred to certain contents in the handout. He said he represented the Shalom Community Christian Church and SR Properties of Greensboro, LLC. The Shalom Church presently occupies the property as its one and only facility. Now the Shalom Church has grown to the extent that there is a need to expand and offer more services to their congregation. There is no way to do that expansion on this property at a reasonable cost. Accordingly they have elected to find another home for their congregation. SR Properties of Greensboro presently has a contract to buy the property from the Church and they plan to construct a two-story office building there, subject to this rezoning. The building will be approximately 12,000 square feet and approximately one-half of that, the

entire first floor, would be occupied by a relatively new bank in this area, Regents Bank. This site will be the headquarters for that bank for the Triad. Limited Office is the current zoning of this property and

there are no conditions on the zoning. Thus all of the uses permitted in Limited Office zoning are available for this property and were it not for the fact that Regents Bank would like to occupy the building, a new office building could be built there right now without any rezoning or any conditions. They have restricted the uses. They do not anticipate any commercial activities, other than the uses allowed in the business, professional and personal services section of Limited Business. This rezoning fits within the Mixed Use-Commercial designation on the GFLUM of the City's Comp Plan. He explained briefly photographs contained in the handout. A traffic impact study was prepared and submitted to GDOT staff by John Davenport, Jr., professional engineer. Mr. Davenport recommends changes to mitigate the impact of this building and those changes will be made. He has discussed Mr. Davenport's report with Ms. Reeves of the GDOT staff. They are extremely sensitive to the fact that this building will be located on what is still Greensboro's main street, Elm Street, as well as all the surrounding homes, offices and commercial activities. They believe it will be better to develop this property under a conditional rezoning than to allow it to be open to develop without any restrictions whatsoever. He asked all of those present in support of this rezoning to stand up and several persons stood. He passed up two letters that had recently come in from neighbors.

Reed Marks, 2102 North Elm Street, said he served as the Triad Area Executive for Regents Bank. Regents Bank is relatively new to the area, having opened a commercial lending office here in Greensboro in the spring of 2004 so they have been here a little less than a year. He was hired to develop the market for them with Greensboro being their flagship for the Triad. He gave some informational background on the Regents Bank. As it relates to their involvement and interest in expanding here, they also own Morgan Keegan Securities and presently are running their loan office out of the Securities Office that is located in the building catty-cornered to them. They would like to stay close to them, but also have a need to go full-service. They basically are commercial lending and real estate development and have done a lot of Downtown real estate development financing projects. He noted that they drive their business on the commercial side so they will not be spending their time focusing on the critical mass of the consumer bank candidates. They will be driving it more from the commercial side, but they do need to have the full-service deposit taking capabilities and they think this site represents an ideal location for them. So they are guardedly excited about the prospects of this and they hope the Commission will move favorably on the change request.

Monsignor Marcaccio, 2210 North Elm Street, said he was pastor of the St. Pius XX Catholic Church. They have approximately 1,100 families and a school on the property with roughly 450+ students. He came today to support the proposal. He thanked Shalom Church for letting them view the property and he understood after his tour their need to seek a new site to expand their ministries. The developer shared with his parish council and school board their plans and they believe that they can find a good neighbor. They are not opposed to the developer's plans as presented to you and having that rezoned to Limited Business. They feel it will be an attractive asset to their community and has the support of their council and his advisers.

Eric Cole, pastor of Shalom Community Christian Church, 2205 North Elm Street, said they had been in this location for about four years and had been approached by many entities to place a facility or different business there. However, Shalom Church was cognizant of the surrounding community when agreeing to have the proposed building erected.

In opposition, Cynthia Hatfield, Esq., 664 Chestnut Street, said she owned 2207 North Elm Street, which

is next to the subject property. She had not been aware that the deed restriction, keeping the subject property as a church, had expired. Looking at the map, the Commissioners can see there is no

business north of Cornwallis now in that block. That block, as well as the whole area, was developed originally with deed restrictions on each parcel, which maintained that whole area as a residential area. This is the first challenge to putting anything other than a church at that corner. She was opposed to rezoning the subject property to anything other than what it is now. She had lived in her property at 2207 North Elm Street and at certain times it was a nightmare getting out of her driveway. She felt a business next door would add to the traffic congestion. The new extremely high tax values clearly show that the City thinks this is a high value residential area and it should remain so. She objected to the change in zoning to make it any easier for business to come in. She thought a bank was different from a professional office in terms of traffic, noise and other things.

Chair Wolf asked if the applicant wished to have five minutes of rebuttal?

Attorney Isaacson said they had removed virtually all of the commercial activity by their use restrictions. A bank is a business, but he thought of it more as an institutional type business than it is a commercial activity. He contended they have restricted the subject property to the office and professional personal service uses. The building will face North Elm Street and the drive-thru would be at the rear of the building. They will put the access on North Elm Street as far north as possible in order to take it away from the intersection. They have not discussed with GDOT the possibility of widening the intersection. Those issues will be discussed at the site plan review and he had discussed that with Ms. Reeves. He said under the ordinance, there is a 30-foot landscape buffer that has to be provided between this rezoning and the residential district. There is also a fairly significant grade elevation change between the house and the level at which the building would sit.

Chair Wolf closed the public hearing.

Mr. Hails said he would first note that staff thinks the conditions are relevant to help compatibility with the area. The uses selected have lower traffic impacts than some of the other uses permitted in the LB district. The brick facade, the maximum two stories and two access points all ensure fitting in with the surrounding area. The GFLUM designates Mixed Use-Commercial here, consistent with the request. Other Comp Plan policies, such as reinvestment and adaptive reuse of properties, also seem to support this. Staff recommends approval of the request.

Mr. Gilmer moved the ordinance, seconded by Ms. Shipman. The Commission voted 8-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None.)

Chair Wolf said another 10-minute break would be taken at this time.

- I. **AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING RS-30 RESIDENTIAL SINGLE FAMILY TO CITY ZONING CONDITIONAL DISTRICT – RM-18 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS: 1) ALL USES ALLOWED WITHIN THE RM-18 ZONING DISTRICT SHALL BE EXCLUDED EXCEPT SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL. 2) SITE CONDITIONS AND MODIFICATIONS RECOMMENDED BY THE TRAFFIC IMPACT STUDY SHALL BE INCORPORATED INTO THE SITE PLAN. 3) TOTAL DENSITY SHALL BE AT LEAST 5.5 DWELLING UNITS PER ACRE, BUT SHALL NOT EXCEED 6.5 DWELLING UNITS PER ACRE. 4) AT LEAST 130 BUT NOT**

**MORE THAN 195 OF THE DWELLING UNITS SHALL BE SINGLE FAMILY HOMES. - FOR A PORTION OF THE PROPERTY LOCATED ON THE WEST SIDE OF FLEMINGFIELD ROAD**

**BETWEEN HUFFINE MILL ROAD AND BURLINGTON ROAD – FOR LANDCRAFT MANAGEMENT, INC. (FAVORABLE RECOMMENDATION)**

Chair Wolf said that Mr. Byrd has a conflict and needs to be recused.

Mr. Haynes moved that Mr. Byrd be recused from discussion and voting on the subject matter, seconded by Mr. Collins. The Commission voted 7-0-1 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None. Abstain: Byrd.)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Tom Terrell, Esq., 300 North Greene Street, said this was a request for original zoning for a property that is contiguous with the City Limits. The GFLUM calls for medium density, which is between six and 12 units per acre. The reason for the RM-18 request is so that there can be a multifamily component. The conditions make sure that they will be close to the minimum of the medium density at 5.5 units per acre, but they also indicate that we will remain on the lower end of the medium density range at no more than 6.5 units per acre. This is a transitional area. The GFLUM calls for the area just to the south to be developed industrially. It is to be developed residentially from this point further north. The multifamily component is designed to be against the industrial portion to the south and it will be generally single family to the north to provide a much better transition.

In opposition, James McDaniel, 2110 Huffine Mill Road, said most of the surrounding area is still zoned AG and RS-30. Somehow in his mind, this is the definition of "spot" zoning, even though it does back up against KMart, but is still AG and RM-30 up that road. From his research, the closest RM-18 was 1.8 miles north on Flemingfield, west on Wendover and you are at Bessemer School with those apartments. The traffic study shows a significant impact on traffic along Flemingfield and the area intersections. When the Urban Loop is completed, it will cross Huffine Mill Road about 1.2 miles east of there. This is an AG and RS-30 neighborhood and he would like to see it stay that way.

Jack Fleming, 183 Flemingfield, said he represented his own residence and was also here as a trustee for the estate of his father, which has the three tracts of land that comprise the 46 acres that adjoins this property to the north. He opposed the increased traffic and also wanted to make sure that this development is not inevitably bad. He was also opposed to the proposed density of the new development, as well as the multifamily units that would be built.

Chair Wolf asked if the applicant would like five minutes of rebuttal:

Attorney Terrell said he didn't dispute the history as described by Mr. Fleming. However, change does come and change has come in the form of the KMart Distribution facility to the west, GTCC west of that and the Highway Business uses along Burlington Road, all of which are intensive uses. So what is left out there for AG purposes is the last land that has not changed. He agreed there was no multifamily out here, but there is Highway Business, industrial zoning and intense institutional use. The guidelines for

this change are the Connections 2025 and the GFLUM that says medium density. The multifamily will

not be for apartments, but for townhouses and condominiums. Whether or not there is a multifamily component has nothing to do with the density. The density will still be 5.5 to 6.5 units per acre. The seller and developer just want to comply with what we, as a community, have asked them to do.

When asked by Mr. Kauber if they had contacted the surrounding neighbors at all, Attorney Terrell said they called one to the southeast with a courtesy phone call and never received a return call. The land to the north and to the east looks, for the most part, undeveloped. When you do this, you make a judgment call as to whether or not you will have a neighborhood meeting. Neighborhood meetings are a regular part of what Landcraft Management does. Because this was so industrial and it was designated to be a higher density, it was felt that this would not be needed at this time.

Mr. McDaniel said he had just one small rebuttal and one comment. The gentlemen before him indicated that the land to the south of this was being held for industrial. He happened to know that there is a site plan being developed at this point for the 11-acre tract just south of the subject property and it is being drawn for a similar use - not multifamily and not commercial property.

Chair Wolf asked if anyone wished to speak in opposition rebuttal, and no one came forward. Thereupon, Chair Wolf closed the public hearing.

Mr. Hails said the GFLUM of the Comp Plan shows this area as Moderate residential. Immediately south of it is Mixed Use Commercial. It is also just outside of an Activity Center. Some of the changes that have gone on in the area are changes that built some of these land uses into our plan. The hope was there could be some higher density mixed use areas out in the eastern part of the City and trying to find appropriate ways of doing that. Obviously, when you go to straight transition from fairly rural in character to single family and multifamily, there is some transition with which everyone will be dealing. However, staff feels that the request overall is consistent with the designation in the Comp Plan. It also supports other Comp Plan policies of providing for diverse housing opportunities and compact development. From the land use side, staff feels the plan supports this request and staff recommends approval.

Mr. Gilmer moved the ordinance, seconded by Mr. Schneider.

Mr. Kauber commented that he hated to see this happen, but he was also professionally committed to the Comp Plan and it is consistent with the Comp Plan. He hated to see agricultural land disappear like this, but we are committed to it.

Chair Wolf called for a vote on the motion on the floor. The Commission voted 7-0-1 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None. Abstain: Byrd.)

- J. AN ORDINANCE REZONING FROM RM-18 RESIDENTIAL MULTIFAMILY TO CONDITIONAL DISTRICT – LIMITED OFFICE WITH THE FOLLOWING CONDITIONS: 1) ALL USES PERMITTED IN THE LO ZONING DISTRICT EXCEPT FOR: (A) BOARDING AND ROOMING HOUSES; (B) TRANSPORTATION, WAREHOUSING AND UTILITIES; (C) AUTOMOTIVE PARKING; (D) TEMPORARY CONSTRUCTION OR RENTAL OFFICES; AND (E) ACCESSORY USES AND STRUCTURES AS CLASSIFIED IN THE PERMITTED USE**

**SCHEDULE. 2) OUTSIDE STORAGE SHALL BE PROHIBITED. 3) NO BUILDING SHALL EXCEED 2 STORIES IN HEIGHT. 4) ADDITIONAL PARKING ON THE UPPER LOT**

**ADJACENT TO SPRING GARDEN STREET WILL BE PERMITTED WITH AN OPAQUE LANDSCAPE BUFFER. 5) EXTERIOR LIGHTING SHALL BE LOCATED, ANGLED, SHIELDED OR LIMITED IN INTENSITY SO AS TO CAST NO DIRECT LIGHT UPON ADJACENT STREETS OR PROPERTIES. - FOR A PORTION OF THE PROPERTY LOCATED AT THE NORTHWEST QUADRANT OF SPRING GARDEN STREET AND SCOTT AVENUE - FOR HHH INVESTMENT PROPERTIES, LLC. (APPROVED)**

Chair Wolf said Mr. Schneider needed to recuse himself.

Mr. Byrd moved that Mr. Schneider be recused from discussion or voting on this item, seconded by Mr. Gilmer. The Commission voted 7-0-1 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Shipman. Nays: None. Abstain: Mr. Schneider.)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Michelle Schneider, 906 Longview Street, said she was the parent member of the College Hill Co-op. They need to sub-lease two of their classrooms. In order to find a tenant appropriate to be housed with children, they needed to look very carefully at who that might be. The current zoning limits that. They have the excitement of a possible tenant to provide a physical therapy service, which would be needed in their neighborhood and would be an appropriate tenant to be housed with children. In order to maintain their success in this building, they need to make these two classrooms into an income-producing space. This rezoning would allow them to do that. They worked very hard before coming here to build a partnership between the neighborhood association, the school and the owners of the property, and she feels like for the first time in many years, this property is being well utilized.

Joe Wood, 4103 Walker Avenue, said he was on the executive committee of the Lindley Park Neighborhood Association. He was here in his capacity as chair of the zoning committee within the Association. When the Co-op first came to the neighborhood, they were welcomed with open arms. They feel it is a vital part and adds a great component. It fit in well with the Lindley Park Neighborhood Plan and they are trying to be very careful about how the Spring Garden Corridor develops. They have had many meetings and everything had been agreed to and put into the conditions and was signed off by the Neighborhood Executive Committee and by the Neighborhood Association. They whole-heartedly support this rezoning.

There was no one present to speak in opposition to the request and Chair Wolf closed the public hearing.

Mr. Hails said this is a case where, since the adoption of the Comp Plan in May of 2003, City Council has adopted a more detailed land use map for the Lindley Park Neighborhood with the Lindley Park Neighborhood Plan. Staff is making reference to that in lieu of their more general GFLUM. The Neighborhood Plan Map shows this location as institutional and moderate residential. He thought the feeling is that the conditions attached to the proposal, including restrictions on height, outdoor storage,

buffering, lighting, etc., really minimize impacts on surrounding properties and it is in the spirit of an Institution/Residential use there that the office use is permitted and is lower intensity than some of the

other ones permitted in this district. He thought the term they had in the staff report was it is mostly compatible with the Lindley Park Neighborhood Plan. The Planning Department, as well as the Neighborhood and others, have been very involved with this so staff took a very close at this. He thought it was significant that the Neighborhood worked through this blow by blow and signed off on it and staff feels that same support and recommends approval of the request.

Ms. Shipman moved the ordinance, seconded by Mr. Haynes. The Commission voted 7-0-1 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Shipman. Nays: None. Abstain: Schneider.)

Mr. Kauber said this was a good endorsement of strong neighborhood organizations and neighborhood plans. He hoped they would see many more neighborhood plans.

**L. AN ORDINANCE REZONING FROM RM-18 RESIDENTIAL MULTIFAMILY TO CONDITIONAL DISTRICT – GENERAL OFFICE MODERATE INTENSITY WITH THE FOLLOWING CONDITIONS: 1) USES LIMITED TO BUSINESS, PROFESSIONAL AND PERSONAL SERVICES. 2) ANY OFFICE BUILDING CONSTRUCTED ON THE PROPERTY SHALL CONSIST OF THE FOLLOWING PRIMARY BUILDING MATERIALS: BRICK, MASONRY, STONE, STUCCO, WOOD AND/OR GLASS. - FOR A PORTION OF THE PROPERTY LOCATED AT THE SOUTHWEST QUADRANT OF WEST SMITH STREET AND SPRING STREET – FOR VOSS C. MALLOWAY. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Marc Isaacson, Esq., 101 West Friendly Avenue, handed materials up to the Commissioners for their consideration. During his presentation, he referred to certain information contained in his handout. He represents the property owner and also the contract purchaser of the property, Beth Bolton. If this rezoning is permitted, Ms. Bolton intends to use the property for her own advertising firm's professional offices. The entrance to the property will be off of Spring Street and the exit will be onto Smith Street. This area is designated as Mixed Use Residential on the GFLUM. Staff has concerns that if this rezoning is permitted, this area will drift away from residential. He submitted to the Commission that Greensboro has long embraced the concept of mixed use at busy intersections, such as this. There are numerous examples with which the Commission may be familiar, particularly near the Downtown area. He named certain intersections where offices were located near residential. In each of those examples where he went around looking for offices near residential, those have worked well for a number of years. He noticed that it has been a good mix of uses because it operates, in his opinion, as a transitional use or a buffer between a busy intersection and residential properties. He submitted that would work well here. He said staff has focused on this side of Spring Street. But he would ask the Commission to look at this with a broader perspective; that across Spring Street, there is a large office building and across Smith Street, there is a business that deals with vehicles, Windshield Glass. So there is a mix of uses in this area already. Simply having a professional business on this 1/2-acre lot would not lead to the domino principle of the entire neighborhood turning from residential into commercial use. He submitted

there would be very limited impact on the City's resources by allowing a

professional office at this intersection. They have met with a few of the neighbors. They could not meet with everyone, but they had tried to address any concerns as specifically as possible. The handout contains a letter from a nearby property owner in support of this rezoning.

Mahlan Honeycutt, 6 Dunkirk Street, said his immediate concern is that he is on the northwest corner of the property in question and his property faces on Cedar Street and backs up towards the corner of the subject lots. He has other properties involved in business and residential and it has worked out quite well. He felt the proposed usage of this property would be an ideal buffer transition from some of the activities that are planned in the area. It would give them the kind of structure that would be useful and also would be beneficial to the neighborhood. He does not see it being a deterrent or negative on the community. As far as any subsequent encroachments of the zoning, this Commission would be the watchdog to look after what goes in there so you could control that to the extent that you care to. He felt that the requested rezoning should be approved. He said he had not had any discussions with anyone about these properties being listed on the National Register. This was the first he had heard about any plans for a historic district on Cedar Street or in that area.

In opposition, Diane Stevenson, 425 North Cedar Street, said she would hate to see businesses moving into the neighborhood right across from her on Smith Street. With all due respect, she does believe in the domino effect and she thinks if three houses go commercial, it will not take any time at all and they will lose the physical integrity of a Downtown. Losing those homes will be just losing the fabric of the community. If you have a home built in the 1920s next to something brand new, it changes the area. She felt if individuals wanted to use the homes and have businesses within that, she would have no problem with it. She also objected to the traffic that would enter and exit this site, adding to the present intersection problems.

Eleanor Motley, 424 North Cedar Street, said her backyard runs parallel to a third of the subject property. She appreciated Mr. Isaacson's taking the time to come and show them the beautiful design. She was very happy that Downtown was coming back. It was kind of the place to be right now. However, this particular rezoning scares her. She believed, if this passes, that someone on Cedar or Spring Street is going to want to sell and perhaps rezone and it would be very hard for this Commission to turn down the next person who comes for a rezoning in the area.

Kay Mitchell, 3534 Lawndale Drive, said she owned property on Cedar Street and it backs up to these subject properties. Her daughter lives on the property and her daughter and she own it. She bought it because of the historical integrity of the neighborhood. She did not know of this proposed rezoning until yesterday and has not seen any sketches of what is proposed.

Chair Wolf asked if the applicant wished five minutes for rebuttal?

Attorney Isaacson said he would point out that traffic certainly is a concern. What is the best use of the property at this location is the question the Commission needs to wrestle with. He submitted that professional offices are a good transition between this busy intersection and the residential nearby. Just because this one corner is rezoned does not mean that the rest of the neighborhood will go commercial. He stressed that there were numerous intersections in the City where offices have worked very well in connection with residential areas.

Ms. Shipman said Ms. Mitchell said she did not receive notification of this proposed rezoning nor the beautiful structure which was proposed for the site. The block layout was returned to the monitor. Ms. Shipman said she was looking at the green areas. Does that consist of businesses or commercial property?

Mr. Ruska explained that the red is contributing structures; the green is non-contributing. These are not historical sites. They refer to contributing structures or non-contributing structures. Most of these structures were built in the 1890s to 1930s and they are very characteristic of the buildings of that period. As he indicated in his remarks, this was a survey that was done with respect to looking at this area as a potential National Register Historic District.

Mr. Hails said if he could add onto that, staff is planning in the next month or two to begin some meetings with Downtown property owners on zoning, including this area, talking about a Downtown Design Overlay Zone, as well as tweaking problems people are seeing with existing zoning. Staff is hoping that they can have some dialogue with some of the property owners in the northwest portion of Downtown, including Cedar and Spring Streets. The zoning there is already multifamily zoning. It doesn't support some of the single-family historic uses in the area so it is under a threat as it is with the current zoning. The rezoning is a new type of threat, but there may well be some meetings in the next few months where they could discuss it. Something like a historic district cannot happen without strong support from the property owners. Three of them came out tonight and staff will be interested in hearing what some of the other property owners out there feel is an appropriate use for the area down the road. He said the zoning permits multifamily housing by right. The proposed rezoning of this site would be one of those kind of nibbling away kind of things where one structure here and three there and two over there are changed. Two of the homes were knocked down two weeks ago not far from Friendly. So at some point in time, it will become untenable, but it is hard to say that any one point in time, but when he delivers staff's recommendation, he will address that.

Ms. Shipman said when you look at the stadium and what it is going to bring in this Downtown area, a lot of this that they are trying to save, in a matter of time, will not be able to be preserved. So she knew they were trying to preserve some of Greensboro's heritage, but she was looking at it the same way. The young lady wants to come in, she is putting an advertising company up, and she has a nice structure with a way in and a way out. It is better than a bunch of apartments or different types of houses being built there about which we could do nothing.

There being no rebuttal by the opponents, Chair Wolf closed the public hearing.

Mr. Hails said he would start with the general and work to the more specific. He thought when this first came up, his reaction was with multifamily zoning in there, do we really have things in our plans that call for the preservation of the homes over there. A lot of things got put in the staff report. 1990 and 2002 Center City Plans that were at least accepted by the Council in both cases call pretty specifically to watch out for this area on the northwest edge of Downtown and for the historic buildings there to try and be protected. He thought it was worth noting that in the Fourth Ward in Charlotte and the Oakwood Neighborhood in Downtown Raleigh and many successful downtowns, they find ways to blend some of the older houses in with the newer development. It is not always a pristine, untouched neighborhood as much as there are goals, some value placed in keeping some of the older housing. He thought the information on the survey indicates that this is possibly eligible for historic district by virtue of the

physical inventory, but as he mentioned, actual protection by establishing a historic district is going to depend on the property owners and whether they are willing to push for it - not solely on them, but he

thought they were a very important piece of this. So there are some past Downtown plans that talk very specifically about this area. In shifting to the Comp Plan, he wanted to point out that the dark purple with the asterisk on it in the center of Downtown, that is Mixed Use Central Business area. That is envisioned where the commercial and the office in Downtown will generally be. Wrapping around on the east, north and west sides, the west side is this area we are talking about, the north side is the Fisher Park Neighborhood and wrapping around to the east side runs East Market a little bit. That is called Mixed Use Residential. Mixed Use Residential means a majority of the uses are residential. He thinks there was a good reason why that was not the same as Mixed Use Central Business. There is an effort to reflect the desire to try and keep some residential in close proximity to Downtown, but not necessarily meaning just on Elm Street. This request in staff's view is not conforming to Mixed Use Residential. While, yes, if you tear down three residential houses and there are several more next to it, you would have office next to residential, but there is no integration of design site plan proposed. Vertical layering - he thought he had talked in the past about when you go to different parts of the community, you should have different goals and different standards on mixed use. If we are way out west, feasible mixed use is having things in close proximity, side by side with good pedestrian connections in a similar design. When you get into Downtown, mixed use becomes more serious. He participated in a charrette they had for the North State Chevrolet site. They are talking a block away from this site about very serious Mixed Use Residential, three to five stories of residential on top of retail, plazas, parking design, tying things together. Not every Downtown project is going to be like that, but on the smaller sites, as they are developed or as there are proposals, it is important to try and have some relationship of existing area to the new development. There are in the Comp plan (they list three on page 3 of the staff report) a whole lot of policies about protecting historic resources, protecting neighborhoods, promoting rehabilitation. They are not specific to this area. He thought this map is the most specific reason for their denial of this request. Yes, Mr. Isaacson mentioned a tradition of putting these types of buildings at busy intersections in Downtown, but we do have a new Comp Plan that came into effect a year and a half ago that called for 22 percent of our community to be mixed use development. Staff thinks we can get more mixed use in this area near the ballpark, near what they think is a major mixed use project that is likely coming along. Staff is not against office use per se if it is in a mixed-use context. But from what they have seen about the conditions attached to this proposal, staff does not see anything that they believe is mixed use, other than the fact that it is taking down some residential structures and is next to some remaining ones. There really is a legitimate threat that the residential over there is going to go away within a few years and our plans do call for preservation of those resources in this area. For that reason, staff is recommending denial of the request.

Mr. Byrd moved the ordinance, seconded by Mr. Collins.

Mr. Byrd said that these are the cases that give him quite a bit of difficulty and he thinks it is because these types of cases, when he looks at them from a pure land use perspective, they make a lot of sense. He looks at this site and it does create some transition between that very busy intersection and the adjoining residential neighborhood. There is higher intensity office use across the street; there is business use diagonally across the street from this property. So from a land use perspective, he sees this making a lot of sense. And then we get into these policy-driven considerations where the City seems to say, even if it makes sense from a land use perspective, we want you to do something else with the property; we want to preserve it for something else. He is not denigrating that concept; he understands that is part of planning. But it is just part of his constitution that has somewhat of a problem with that. So he struggles with these decisions because we have adopted a Comp Plan that is to guide us, but from a

land use perspective, again he thinks this makes sense. He asked staff when that historical survey was made of this community?

Mr. Ruska said since he did not participate in that, he was not really sure. He thought it was relatively recently. He thought part of this occurred as one of the committees of Action Greensboro. He knew Heidi Galanti was involved in some of the inventory of structures in this neighborhood. So it was relatively recent, but as far as the rest of the survey, he really did not know. He just had the impression that it was done recently.

Mr. Hails said he thought it was at least a year or two, but not four or five years ago.

Mr. Gilmer said a year and a half or two years ago would be accurate.

Mr. Byrd said that nothing had happened since then to press ahead with applying for a National Register listing with respect to these properties, which he understands will require the cooperation of the owners.

Mr. Hails said that National Register recognition does not protect through zoning. You can have all the National Register projects you want and they can be torn down if the property owner wants to do so. What is more significant is whether it might become a locally designated historic district and, as he has indicated, they do expect to have some discussions with some of the property owners out there and see what their appetite for that is. It can be individual landmarks or it could be an entire district.

Mr. Schneider said the landowners don't know a whole lot about the survey or the historical possibilities?

Mr. Hails said he thought typically those kinds of surveys are done just to try and determine whether further discussions about the general merit of the historic resources and whether further discussions make sense or not. That is typically sufficient for saying those buildings are eligible for the National Register. They are more significant if somebody wants to get tax credits for investing in the rehabilitation of them, but it typically also means that if the property owners so choose, they can support a Local District as well.

Mr. Gilmer said he thought what happened probably a year and a half or two years ago, you had some committees from Action Greensboro and it was broken down into subcommittees who went out to different areas Downtown and took photos and did an extensive survey and came back with some recommendations. He said he didn't think that deep in his heart he could support this rezoning at this time. He thought it was encroaching into the neighborhood and he just does not feel good about it. He had to support the Comp Plan on that. He thinks there would be kind of a domino effect probably in the future and he was weighing the information about the historical part of it and that did not really play a part in his decision. He just did not feel good about what could happen with this.

Mr. Collins said he believed that he is probably going to support this. The three speakers that spoke to us were all from Cedar Street. Being somewhat familiar with this area, he thought that Spring Street is, in effect, really not part of the neighborhood you folks were referring to. Cedar Street is the neighborhood. Cedar Street by virtue of the way the City designed where it intersects with Smith Street does not make sense to be commercial at some point in the future and he believed that Cedar would not be. He quite frankly believes that the office uses is a better use than a three-story multifamily building, which is probably what will end up here, and he would almost bet that was what was going on the property of those two houses that were just taken down. He would rather have an office use than a three-story multifamily in this area. It has not been mentioned, but over between the railroad tracks and

Cedar Street and Prescott is quite an industrial area. He did not see that changing back to residential. He did not feel that Spring Street was a neighborhood street. It is becoming a business district and if you look at just the zoning map, well over 75 percent of it is business along that stretch of street between Smith and Friendly. He was all for protecting Cedar Street and parts of Bellemeade and when you get up on the other end of Cedar, he was not quite sure it's the same as it is now with Smith Street into Cedar, but he thought this was a good use. This is one of those things that if you leave it as it is, there are a lot of people in this town looking for a lot of houses to tear down and build big multifamily and he thinks that is what will happen because that is what the zoning is there today. He believes office is a better use.

Chair Wolf said he agrees with Mr. Collins. He has always perceived this one-way street as mainly a major route from Downtown out to I-85 and I-40 because you get on that road and it is the straight shot out of Downtown, just like Edgeworth is the straight shot coming in. So he really believes, with all the uses across the street from that as Mr. Collins pointed out, he just does not perceive that as part of the neighborhood, whereas the elevational change on Cedar, which sits up a little higher, is truly a neighborhood and he didn't see uses wanting to go up into there, particularly due to the way it dumps down onto Smith Street. So he was going to support the request.

Ms. Shipman said she also was looking at Cedar Street and she wants the residents to know she thinks that particular area should be safe, as far as anything being built over on Cedar. But Spring Street is a here and there type of situation, so there could be a lot of businesses coming up. She would rather see businesses than a bunch of apartments.

Mr. Schneider said he had been struggling with this and the RM-26 is really scaring him and Mr. Collins' and Mr. Wolf's vote helped to convince him and he plans on supporting the request.

Mr. Haynes said he was still not convinced. He thought it would be a domino effect. Once you start tearing down these three houses, with the baseball stadium, with the new proposed site of North State, he just did not feel good about it and he will vote against the request.

Chair Wolf called for a vote on the motion on the table. The Commission voted 6-2 in favor of the request. (Ayes: Wolf, Byrd, Collins, Kauber, Schneider, Shipman. Nays: Gilmer, Haynes.)

**M. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING AGRICULTURAL TO CITY ZONING CONDITIONAL DISTRICT – PLANNED UNIT DEVELOPMENT – RESIDENTIAL WITH THE FOLLOWING CONDITIONS: 1) FOR RESIDENTIAL USE ONLY. 2) THE WESTERN PORTION OF THE SUBJECT PROPERTY CONSISTING OF APPROXIMATELY 32.27 ACRES AND SHOWN AS TRACT “A” ON THE SKETCH PLAN PREVIOUSLY SUBMITTED AND APPROVED BY THE GREENSBORO PLANNING DEPARTMENT (THE “SKETCH PLAN”) SHALL BE DEVELOPED WITH EITHER TOWNHOUSES OR A COMBINATION OF ATTACHED TOWNHOUSES AND DETACHED SINGLE FAMILY RESIDENCES. THE TOTAL NUMBER OF SUCH RESIDENCES WITHIN SUCH TRACT A SHALL NOT EXCEED 125. 3) THE EASTERN PORTION OF THE SUBJECT PROPERTY CONSISTING OF APPROXIMATELY 16.07 ACRES AND SHOWN AS TRACT “B” ON THE SKETCH PLAN SHALL BE DEVELOPED SOLELY WITH DETACHED SINGLE FAMILY RESIDENCES. THE TOTAL NUMBER OF WHICH SHALL NOT EXCEED 73. 4) EACH RESIDENCE TO BE DESIGNED FOR SALE. 5) BERMS ARE TO BE PROVIDED AND**

**MAINTAINED ALONG THE FRONTAGE OF THE DEVELOPMENT ALONG THE BOUNDARY ABUTTING THE RIGHT-OF-WAY FOR EAST LEE STREET AND IN BETWEEN ANY DRIVEWAYS AND ROADWAYS OPENING DIRECTLY ONTO EAST LEE STREET. EXCEPT WHERE THE ENDS OF THE BERMS SHALL SLOPE DOWNWARDS TOWARD ANY DRIVEWAY, ROADWAY OR THE PROPERTY LINE OF THE PROPERTIES ADJACENT TO AND OUTSIDE OF THIS SUBJECT DEVELOPMENT, SUCH BERMS SHALL BE ESSENTIALLY 3 TO 5 FEET IN HEIGHT ABOVE THE SHOULDER OF THE PORTIONS OF EAST LEE STREET IMMEDIATELY ADJACENT THERETO. - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF EAST LEE STREET AND ON THE NORTH SIDE OF THE GREENSBORO URBAN LOOP BETWEEN ROTHWOOD ACRES DRIVE AND GLEN LAUREL DRIVE – FOR AMY E. ANDREWS. (FAVORABLE RECOMMENDATION)**

Chair Wolf said Mr. Byrd has a conflict of interest and needs to be recused.

Mr. Collins moved that Mr. Byrd be recused from consideration or voting on this item, seconded by Ms. Shipman. The Commission voted 7-0-1 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None. Abstain: Byrd.)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

John Higgins, Esq., with the firm of Hunter, Higgins, 101 West Friendly Avenue, handed up materials for the Commissioners' consideration. During his presentation, he explained the contents of the handout. He said he was representing the property owners who wished to have this property developed. He said if you combine both tracts, you would end up with slightly more than four units per acre, clearly coming within the definition in the Comp Plan of low density residential and this property is so dedicated by the GFLUM. The purpose of the berms along Lee Street will be to provide a buffer, both for sound and visually, for the development, segregating it from the traffic along Lee Street and it would also be a visual barrier for the residences on the other side of Lee Street. Because of the size of this project, a traffic study was prepared by John Davenport Engineering, Inc., and Mr. Davenport is here to answer any questions of him. He discussed briefly the traffic impact that this development will have. He called the Commissioners' attention to the schematic that is a preliminary plan. This is not at all final. GDOT and NCDOT will have input as to the final configurations. When they met with the neighbors, there was one concern expressed and that is that this currently is a narrow two-lane road. At the time it was built, not much attention was given to the banking of the curve, etc. Of course, they will be required to do curb and gutter. He felt that by itself would improve the safety by making the curve actually more visible at night than is now the case. The other thing recommended by the impact study was that for each of these cuts into Lee Street access points, there will be a lane added so that there will be a left turn for traffic heading north on East Lee Street. Having been informed of the safety concerns of the neighborhood that exist now, they will be contacted NCDOT as to what additional matters they could do to make it safer than it is today. After talking with the engineers, the access point closest to the eastern end of this development they are considering eliminating altogether. It has the weaker visibility, if you will, and because of the existence and location of the Flora Vista Circle, it was considered important to have one of these access points aligned up with one of those streets as well. So it might make a great

deal of sense to eliminate that easternmost access point. They believe this is clearly the best use of this property. Between the lowest buffer and the Interstate, he said that could be either townhouse or single family and is deep enough to have units on it.

There being no one present to speak in opposition to this request, Chair Wolf closed the public hearing.

Mr. Hails said the GFLUM calls for low-density residential use on this site, which clearly the proposal conforms with. Other Comp Plan policies also support this. This is located in Tier 1, represents diversified housing stock in the area, represents compact development and would also serve a role in helping to link some annexation of other sites in the immediate area that have previously submitted voluntary petitions and make for more efficiency of City services to the area. As such, staff recommends approval of the request.

Ms. Shipman moved the ordinance, seconded by Mr. Collins. The Commission voted 7-0-1 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None. Abstain: Byrd.)

**N. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING AGRICULTURAL, RS-40 RESIDENTIAL SINGLE FAMILY, LIMITED BUSINESS, AND HIGHWAY BUSINESS TO CITY ZONING RS-12 RESIDENTIAL SINGLE FAMILY – FOR A PORTION OF THE GREENSBORO URBAN LOOP FROM THE EASTERN END OF THE NEW I-85 – SOUTH ELM-EUGENE STREET INTERCHANGE TO THE EXISTING SATELLITE CITY LIMITS – FOR THE PLANNING DEPARTMENT. (UNFAVORABLE RECOMMENDATION)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties.

Chair Wolf opened the public hearing.

In opposition, Tim Marion, 1607 Ilchester Court, said they were awfully confused tonight because last year they had spent a lot of money and a lot of time trying to bring their land up to the City's GFLUM. They saw the map of their land was zoned residential and agricultural and it said it wanted to be Light Industrial so they had their land rezoned as Light Industrial. Then they received a very confusing letter from the City a few weeks ago that says they wanted to zone the right-of-way and the median to RS-12, which is residential. They want to develop the land as a Light Industrial site and they feel now there will be more zoning problems, setback requirements and that type thing when they do try to put a building there or an office park or whatever may come up. Really what they were here for tonight is they want to know, first off, rezoning that land and jumping over all of their County land, something from the City Limits over their land and getting the median, in what way will that affect their property? Will the Scenic Corridor from the City apply to their County land at that point? They are into the Guilford County Scenic Corridor plan right now, which they feel is a good compromise, but they are not in favor of the City's Scenic Corridor so they would like first for the City to answer his question on that. And then just tell him exactly how his property is going to be affected by this residential right-of-way to the Interstate 85 Bypass?

Mr. Ruska said first of all, in terms of the setback, the setback is not dictated by the zoning on the road. The setback will be dictated by what the zoning is on private property. There is going to be a setback from the Urban Loop, regardless of how that is zoned. That setback is going to be dictated by how the private property is zoned. With respect to the Scenic Corridor, the Scenic Corridor again relates to

private property. They are just talking about right-of-way and NCDOT owned property. So the Scenic Corridor would not apply to anybody's property unless and until they get annexed into the City of Greensboro.

Mr. Hails added that this is a long section of roadway and according the Comp Plan, it passes through some sections on the north and east that are single family, Low Residential in nature. It does on the westernmost portion go into some areas designated as Industrial, so it has a variety of uses in the surrounding area, but as Mr. Ruska mentioned, they are talking about the right-of-way here and not about the surrounding property.

Chair Wolf asked whose Scenic Corridor applies once you rezone the Loop? Is it the City's Scenic Corridor?

Mr. Ruska said the City's Scenic Corridor would not apply to private property unless and until that property is annexed into the City.

Mr. Hails said the zoning down there on surrounding property is predominantly County, it is County zoning, including the County's SCOD overlays.

Mr. Byrd asked what if a property owner while his property is in the County does something with the property that is inconsistent with the City's SCOD and then subsequently attempts to have it annexed into the City and in connection with that, to develop it?

Counsel Carr said grandfathering is a legally existing, non-conforming use until such time as that use goes away for whatever reason. If it continues on ad infinitum, then it continues to have the non-conforming legal status. That is true for any properties that we annex into the City Limits, with the exception of those uses that we have specific amortizations for in our City Code.

For consistence purposes in terms of what we have imposed upon other applicants who want to change uses that are not consistent to the Comp Plan, how are you justifying changing the right-of-way within the purple to residential? What exempts the right-of-way from the standard of private property? You have to admit that out in the their area, if they came to you to rezone what is LI to Residential, that would require a Comp Plan Amendment; can we all agree on that, if it's in the purple area near Elm Street between Pleasant Garden and Elm? What is it in the Ordinance that gives the right-of-way a different treatment in terms of not needing a Comp Plan Amendment?

Mr. Ruska said he thought part of it would just be the practical aspect of not chopping up a right-of-way into various zoning districts along it's length and the pattern that has been established, as he pointed out on the segment of the Loop, which stretches from Burlington Road down to I-40.85 is RS-12. So we are just continuing the same zoning pattern.

Mr. Hails said it couldn't be developed. It is sort of choose your best shot and it will raise more flags if it was some high density use, even though it couldn't be developed if were a low density which most people view as less threatening. It doesn't preclude a rezoning at some future point, if the surrounding properties were rezoned. But this covers a lot of territory and includes some areas where the City doesn't have land use designations, some areas where it is low density residential and then some other areas.

Mr. Wolf said that what Mr. Hails was saying was that basically you think the Comp Plan does not apply to major thoroughfares? It is not necessarily the fact that it is owned by the State or owned by the Federal Government or owned by the City, it is the fact that it's a major thoroughfare and it just is not what the Comp Plan contemplated governing.

Mr. Ruska said that in a sense a road is a road and in a sense it really doesn't matter what it's zoned because you can't build anything on the road anyway. Just for consistency purposes, staff is requesting RS-12 zoning.

Ms. Shipman said Mr. Ruska said that they were zoning the road as RS-12, not the land that's surrounding the road.

Mr. Hails said that is correct.

Ms. Shipman said that is their land and nothing would change, as far as Mr. Marion was talking about.

Mr. Ruska said that was right. To follow that a little further, as many of you know that when the City does a forced annexation, on many occasions they use RS-12 as the original zoning, with the full intent that somewhere down the line, the property is going to be rezoned to something else. In this particular instance, RS-12 is essentially being used that way, but you wouldn't really think about rezoning it because it's a road.

Mr. Hails said if the City didn't assign zoning within 60 days of the effective date of the annexation, it becomes unzoned.

Counsel Carr said one of the things she was going to add is that if you look at the principles under the Comp Plan, one of the principles, and she could not pull it out from memory, is to improve and/or maintain the aesthetic quality of our thoroughfares. And if we are doing that, we have to do it based on the type of zoning classifications that would fit those aesthetic patterns. What she was hearing staff say is that RS-12 has the appropriate aesthetic patterns to meet somewhat like a Scenic Corridor, without it's being a Scenic Corridor.

Mr. Ruska said that every single segment of road that we currently have within the City of Greensboro is zoned something. Many roads are zoned residential. As strange as that seems, we have a lot of mileage of roads that are zoned residential.

Chair Wolf said, bottom line, does this rezoning trump the County's SCOD in terms of billboards?

Mr. Ruska responded, "No." because the County's SCOD applies to private property. It doesn't apply to State owned property.

Chair Wolf said what you are telling him was the County's prohibition against billboards against residential property will not be triggered by this rezoning? He didn't remember all the details of the SCOD. A lot of what we have had going on is about billboards. The County ordinance tried to split the difference to some degree, but he could have sworn the County basically still has limits. You can't do it on property that is adjacent to residential; is that right, or on residential?

Mr. Marion said yes, a 300-foot setback.

Chair Wolf said what he wanted to hear from staff if this is an attempt to get around the County's billboard ordinance. In other words, is this going to trigger people who, if they had it LI, could put it right up against the right-of-way?

Mr. Hails said Chair Wolf was essentially asking staff for detailed information about the County's zoning regulations and he could honestly tell him that staff has not studied them and don't know. Typically, if that zoning is in another jurisdiction, that oftentimes makes a difference. But he can't say that staff had studied the County's regulations on this.

Counsel Carr said, which is the reverse, the issue had come up with regard to sexually oriented businesses within the City Limits. And the question was asked by a sexually oriented business owner, "If I am within 25 feet of the County and the City's regulation says I can't be closer than 1,000 feet to residential property. And the closest residential property is County zoned residential property, what then is the answer?" She thought they have uniformly as a City said, "We will respect County zoning, but we can't answer that question in reverse because we don't know what the County's policy is about upholding or abiding or using our zoning as a litmus test for their regulations."

Chair Wolf said he did not have the County ordinance in front of him to look at. You decide as a City that we don't want sexually oriented businesses down a particular road and the City decides to rezone the road residential. Will that trigger non-conforming status to any SOB down that road?

Counsel Carr said provided you're talking about all of the property is within our zoning jurisdiction.

Chair Wolf said yes, inside the City. You rezone Wendover.

Counsel Carr said it would trigger all of the legally existing non-conforming uses, if they were in existence at the time of our rezoning. One could not then come to that area and build a new one. But again, that presupposes that it's all City controlled. The question Chair Wolf asked was, "Does the County respect and abide by contiguous City zoned property," and staff does not know the answer to that.

Chair Wolf said he remembered listening to a Council meeting a year or two ago. He couldn't remember, but somebody on the Council off-hand made the comment, "Maybe we ought to rezone the Outer Loop residential," with the intent being to stop billboards. He wondered if that was what was going on here because he personally hated billboards and particularly hated them inside town. He particularly thinks that the Northern Loop probably doesn't belong with them, but he was pretty firm in his belief that the rerouted 85 needs some billboards. And so, he was a little concerned that this is a backdoor way of triggering the County's ordinance to prohibit billboards along this entire link, but unfortunately, he does not have the County ordinance in front of him.

Mr. Hails said he could tell Chair Wolf, just as sitting in on staff meetings on this matter, that all focus on this is a big chess game on annexation on the south and east sides of Greensboro and that we have dozens of unexecuted petition annexations, Youngs Mill Road, East Lee Street, South Elm and so on, and they are trying to use all the tools made available to the City in the State's Annexation Law to consolidate those in a reasonable fashion. He can't say that it is possible that there might be some unintended consequences in the annexation focus and that is all he could tell the Commission. Mr. Hails said he could not answer a specific question about whether City zoning abutting County zoning affects development on the County zoned land. There are a lot of places where they join.

Chair Wolf said he was basically trying to get to what Mr. Marion asked. Mr. Marion asked a question that we couldn't answer absent you going to the County and saying to the County, "What's the consequence of the City rezoning the Outer Loop? Does that trigger anything in the Scenic Corridor that impacts you?" He was at a loss.

Mr. Marion said that was their question and he thought the Commissioners can't make a vote on it until you know these answers. It just doesn't seem fair. Last year they went through all the stuff that was going on with the Urban Loop. That is actually the I-85 Bypass out there. The County, he believed, wanted to say the setback for billboards out there was 300 feet because of agricultural, the highway was agricultural. Then they went on to say in the same meeting that if it's residential or agricultural, it's a 300-foot setback. So he was clear on that.

Chair Wolf said all they were looking for is a recommendation from us. This is going to Council. So it doesn't matter. He guessed they had a right to give no recommendation if we want to. We have all three choices. Yes, maybe, or no opinion. We have done a no opinion before on something. The Council is going to decide this anyway and he would certainly hope that we would know those answers at that hearing.

Mr. Hails said he would be glad to convey that question to the County Attorney.

Chair Wolf said that was an important issue because that was going to impact all these owners along there as to what it would do to the County's SCOD in terms of triggering anything related to signage. That is what everybody is going to know; that's the bottom line. That is what all the fights have been about. It was what the fight was on the last AG property that went LI. So we might as well say, "That's the issue that ought to be discussed at the Council level." Chair Wolf said his inclination was that his own vote would either say nay or no opinion, but it was up to the rest of the Commission. He is just one vote.

Mr. Gilmer said he hated being put in a position that we have someone come up and ask us questions and we can't answer them. He didn't feel good about that. Then staff doesn't clearly know either.

Mr. Ruska said staff could answer his question if he were coming in and asking about annexation of his property and how this would impact him. What staff cannot do is answer for the County.

Mr. Gilmer said he understands that, but was it possible between now and then, if we didn't render an opinion and it gets to City Council, that you could find out an answer?

Mr. Hails said he was certain they would get an answer by the time they get to City Council. He didn't think it was a complicated question, it is just one we can't answer.

Chair Wolf said if once this was residential, if somebody wanted water and sewer, are you going to say to them, "We will not give it to you unless you request contemporaneous annexation. Therefore that triggers our Scenic Corridor?" He wanted to know all the variations here.

Counsel Carr said the City does not extend water and sewer outside of the City Limits without a voluntary annexation petition.

Chair Wolf said he understood that, but he was going a little further than that. He seemed to recall over the last six months or so, Council had considered imposing obligations to meet all the ordinances and back away from that.

Counsel Carr said that is correct.

Chair Wolf said but, if you decide that when somebody signs an annexation petition for water and sewer, you are going to immediately use this Outer Loop to bring them in. Then they immediately become subject to all the City's regulation. He wanted to know if that was what is anticipated, or did he have the order out of whack in terms of how things would proceed? In other words, he comes to you down here between 421 and Elm and I say I want to develop LI and it currently would allow a billboard, but he needed water and sewer. And you say, "Fine. We will give you water and sewer, but agreed to immediate annexation as your only choice." Are those the ground rules?

Mr. Hails said, "We do that every week, a couple of times every week. Somebody comes in outside the City Limits." Staff determines whether we are able to annex if they submit a petition and if they want water and sewer, they submit a petition. So there is nothing unique about this area in that regard. We have annexed a number of rights-of-way using this technique multiple times in the past, even as recently as last year.

Mr. Ruska said that was the same way they annexed the segment of the Loop that stretches from Burlington Road south to I-40/85.

Chair Wolf said he remembered that.

Mr. Schneider asked if that were not residential? The property in the Loop is Industrial.

Mr. Hails said it adjoins Mixed Use Corporate Park and Industrial on two sides.

Mr. Gilmer said going back to what Chair Wolf said if that person was able to have a billboard on their property and they agree to be annexed for providing water to them, then what happens as far as the billboard. Would they have a certain amount of time to get rid of the billboard or would they have to give it up then to get water and sewer?

Mr. Hails said, as their attorney said, if it was legally constructed, then it is a legal non-conforming use in the City. If it doesn't meet the City requirement, but the State stepped in and passed new laws regarding amortization of uses. It only allows you to do it under very strict criteria, such as buying fair market value or pursuing other remedies.

Mr. Gilmer said so they could be compensated, in other words?

Mr. Hails said it is possible. One of the options of a City is compensating; that's right.

Chair Wolf said to Mr. Marion that it didn't seem the Commission can answer his question, although he thought he should appear at City Council because he would expect the answers to be available.

Mr. Marion said they were pursuing these answers as well as you guys are tonight. They have asked these questions already. He may not personally, but some others and they are not happy with what they had heard so far. So they want to pursue it further and just see what's going on with this.

Chair Wolf asked if there was anyone else who wishes to speak? He had let the time run but they would go ahead and hear it.

Pat Shore, 4617 South Holden Road, said he could answer the question. The County ordinance will not allow a billboard within 300 feet of residential property and it does not matter if it's a highway that will never be a resident on. He had experienced that personally and that is the answer to the question. The County ordinance plainly states that, that you cannot have a billboard with 300 feet of any residential property.

Mr. Hails said it doesn't matter if it's in the County jurisdiction or not.

Mr. Shore said no, that doesn't matter.

Chair Wolf asked what would be the current setback on the Outer Loop to put a billboard in?

Mr. Shore said he thought it was 15 feet from the edge of the billboard. He said he was like Mr. Marion, he doesn't understand this. Mr. Marion made some very good points and he would try not to go over all of them again. But the question of rezoning this entire thing to RS-12 just because up at the tip of it happened to be that way, to him, that doesn't make sense. Sure, there are roads that have some RS-12 zoning in them, but they come in with property lines. Here you have RS-12; here for a ways you will have LI for the next section because a lot of zonings do run to the centerline of highways. When he called staff and asked them why rezone to RS-12, they said it had to be zoned something. To him, just because it was on that upper end, that doesn't seem proper to do it all the way. They have heard the arguments about police service and things like that so they will have jurisdiction, but in Guilford County we have an excellent Sheriff's Department, excellent fire service, and the NC Highway Patrol does an excellent job. He is sure the Greensboro Police Department is excellent too, but why stretch them out on this section. It doesn't make sense. We all know what this is about. That has already been brought up. But they spoke of the Comp Plan and we have already been over that. And what good is it; is there not going to be an Amendment hearing to the Comp Plan because this clearly goes against it and he was of the understanding that there should be an Amendment hearing. Another question he has is, "Will it truly affect his property into the future." He was concerned about that. He owns 100 acres on the Loop between Elm Street and Pleasant Garden Road. He has 3,500 feet of road frontage and he was concerned when things like this pop up. It really bothers him when he hears things about not allowing you to do this because you won't be able to get water and sewer and we are going to hold this over your head. He does not like the City's SCOD. He thought it was very intrusive of landowners' rights, which are at the core of our basic rights in America. He thinks it is very intrusive over that to tell a business that they cannot put up a certain color sign or that they have to hide their building behind bushes or that they can't put a certain color roof on it to attract attention. This is the I-85 Bypass. When you can go all the way around the Loop, but it is I-85 Bypass and there are 50,000 cars a day going by there. If we want that business to ride on by, that is what is going to happen if you block it off with a row of trees down each side and don't let anybody put up any advertisement. We need this on the south side. We need to be able to progress with our business and our whole economy. He thought the County Commissioners came up with a good plan, it was a good compromise and it allows some of both. He does not understand the City. He thought there were a lot of business owners who were dissatisfied with

the SCOD and anytime it is brought up, it is very scary to him as a landowner. He thought it is a real encroachment on landowners's rights. He saw some of his neighbors here earlier, but they have since gone home.

Mr. Wolf asked if the entire Loop is within the water/sewer boundary set by the City? He could see the City's point in terms of annexation. Clearly that is a boundary line that assists in promoting sooner annexation of that land within it for the purpose of helping all of us who are citizens of the City get our utilities and infrastructure paid for. He just wonders about the other consequences of it and he thinks that needs to be aired at Council.

Mr. Gilmer asked what did the Commissioners need to do, just go forward with no opinion?

Chair Wolf said he is not advocating that. You all have to decide on your own how you want to vote.

Chair Wolf closed the public hearing.

Mr. Hails said as noted, they have precedent for doing this. This is essentially a holding zone. It is low density and it's been used a number of other times. If subsequent rezonings of private property around it and annexations were to come into the City's jurisdiction, he was sure they would take another look at whether it was still appropriate at that time. But the time of annexation, zoning needs to be assigned by the municipality and that is what they are doing. So staff recommends approval of the request.

Mr. Gilmer moved the ordinance, seconded by Ms. Shipman. The Commission voted 0-8 in favor of the recommendation, thereby defeating it. (Ayes: None. Nays: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman.)

#### **OLD BUSINESS:**

- A. **AN ORDINANCE REZONING FROM CONDITIONAL DISTRICT – SHOPPING CENTER WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES ALLOWED IN THE SHOPPING CENTER DISTRICT. 2) DEVELOPER SHALL INSTALL A SIX FOOT OPAQUE FENCE ALONG THE ADJOINING PROPERTIES WHICH ARE ZONED RESIDENTIAL. 3) ALL BUILDINGS SHALL BE OF BRICK AND MASONRY CONSTRUCTION. 4) DEVELOPER SHALL DOUBLE THE RATE OF THE REQUIRED STREET PLANTINGS AND THE REQUIRED PLANTINGS IN THE BUFFERS ALONG THE ADJOINING PROPERTIES WHICH ARE ZONED RESIDENTIAL. 5) PROPERTY WILL BE DEVELOPED IN CONJUNCTION WITH THE PROPERTY TO THE EAST WITH CROSS ACCESS PROVIDED BETWEEN THE TWO COMMERCIALLY ZONED PARCELS. 6) THERE SHALL BE A MAXIMUM OF TWO DRIVEWAYS ON PISGAH CHURCH ROAD. THE WESTERNMOST DRIVEWAY WILL BE FULL ACCESS AND THE EASTERNMOST DRIVEWAY WILL BE RIGHT IN, RIGHT OUT ONLY, THE LOCATION OF WHICH SHALL BE APPROVED BY GDOT. - TO CONDITIONAL DISTRICT – GENERAL BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES: ONLY USES ALLOWED IN SC ZONING WILL BE PERMITTED. 2) ONLY ONE PYLON SIGN WILL BE ERECTED ON PISGAH CHURCH ROAD TO SERVE ALL OF THE USES INCLUDED IN THE 2.94 ACRE PARCEL. 3) NO BUSINESS WITH ITS PRINCIPAL USE BEING A “BAR” WILL BE PERMITTED ON THIS PROPERTY. 4) DEVELOPER WILL INSTALL A SIX FOOT OPAQUE FENCE ALONG THE ADJOINING PROPERTIES THAT ARE ZONED**

5) ALL BUILDINGS WILL BE OF BRICK AND/OR MASONRY STYLE CONSTRUCTION. 6) DEVELOPER WILL DOUBLE THE RATE OF REQUIRED PLANTINGS IN THE BUFFERS ALONG THE ADJOINING PROPERTIES WHICH ARE ZONED RESIDENTIAL. 7) PROPERTY WILL BE DEVELOPED WITH CROSS ACCESS TO THE WALGREEN'S PROPERTY TO THE EAST. 8) THERE WILL BE A MAXIMUM OF ONE DRIVEWAY WHICH WILL BE FULL ACCESS AT THE WESTERNMOST PORTION OF THE PROPERTY ALONG PISGAH CHURCH ROAD. - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF PISGAH CHURCH ROAD BETWEEN BAYLOR STREET AND NORTH ELM STREET - FOR STEPHEN C. AUSTIN. (CONTINUED FROM FEBRUARY 14, 2005 MEETING) (DENIED)

Mr. Ruska mentioned that the information about this property was contained in the staff report.

Mr. Collins said he thought Mr. Ruska commented that Mr. Austin wanted to withdraw it.

Mr. Ruska said he called Mr. Austin because they were getting ready to have their final staff meeting to discuss the written reports. And at that point, Mr. Austin indicated that he was going to withdraw it. Again he gave Mr. Austin staff's fax number so that he could fax a written request in and he still has not received anything.

Chair Wolf said they had no one here to speak in favor of this request. Seeing none, he asked if there was anyone in opposition to the request and no one came forward.

Mr. Hails said they had had some dialogue with the applicant about changing what staff thought was a critical provision about the proposed signage on the property. The applicant, while he discussed it with them, never added a condition to address their concern. Therefore, staff is recommending denial of the request.

Ms. Shipman moved for denial of the ordinance, seconded by Mr. Collins.

The Commission voted 8-0 in favor of the denying the request. The Commission voted 8-0 in favor of the motion. (Ayes: Wolf, Byrd, Collins, Gilmer, Haynes, Kauber, Schneider, Shipman. Nays: None.)

Chair Wolf said he could not resist the comment, so he hoped it got back to the applicant, that somebody within the development community of Greensboro would treat the Zoning Commission in such a way by not appearing last month and not appearing this month and not giving the City staff the courtesy of something in writing as to the disposition of an item. He finds that appalling amongst somebody actively involved in the real estate development community in this City.

#### **ITEMS FROM THE PLANNING DEPARTMENT:**

Mr. Hails said there was the ongoing saga of City Council's consideration of the possible merger of the Commission and the Planning Board. He was just going to say that item did not get onto their February 22nd work session. Staff sent them a summary of the setup in other cities. He sent them a brief summary of your discussion at your February meeting and the Planning Board's discussion. There is a chance it may be on the Council's March 22nd work session, but they have not gotten confirmation of

that to-date.

**ITEMS FROM THE ZONING COMMISSION MEMBERS:**

Mr. Haynes asked if any of these cases tonight have been scheduled for next month since they had the joint meeting tonight also.

Chair Wolf said he did not think they had a policy of ever pushing anybody up.

Mr. Ruska said no, they did not have any automatic cut-off. In fact, next month for the April meeting, you are going to have 15 cases.

Chair Wolf asked if any of the City initiated ones could be postponed sometimes or is it just not worth doing that?

Mr. Ruska said once an annexation starts to track, they have to track the original zoning with it because if it gets off kilter then it just causes a lot of confusion.

Chair Wolf said that was right, because staff had had it heard most of the times before the Planning Board before it comes to this Commission.

Mr. Ruska said the Planning Board had to hear it before it comes to us.

Mr. Hails said some Commissions, several in the State, including where he used to work, used to have a standing second date in the month and if the number of cases went over a certain amount, it would automatically trigger a second meeting in the month and that allowed them to keep the time amount for the first meeting usually to a reasonable amount, whatever that is. That is something we would have to work out logistics on, but he didn't see that as impossible if that's what folks want to do.

\* \* \* \* \*

There being no further business before the Commission, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Richard W. Hails, AICP  
Planning Director

RWH/ts.ps